



## Saint Paul Planning Commission

City Hall Conference Center Room 40  
15 Kellogg Boulevard West

### Steering Committee Meeting – 8:00 a.m., Room 41

Christopher B. Coleman,  
Mayor

#### Agenda

November 16, 2012  
8:30 – 11:00 a.m.

Saint Paul  
Planning Commission

Chair

Barbara A. Wencil

First Vice Chair

Elizabeth Reveal

Second Vice Chair

Paula Merrigan

Secretary

Daniel Ward II

**I. Approval of minutes of November 2, 2012.**

**II. Chair's Announcements**

**III. Planning Director's Announcements**

**IV.**

**Zoning Committee**

**SITE PLAN REVIEW** – List of current applications. (*Tom Beach, 651/266-9086*)

**OLD BUSINESS**

#12-109-252 Hip Hounds Inc – Establishment of legal nonconforming use as a dog daycare with outdoor relief/exercise area. 1752 Grand Avenue between Wheeler and Fairview. (*Michelle Beaulieu, 651/266-6620*)

**NEW BUSINESS**

#12-202-256 Metropolitan Council Environmental Services – Conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill. 2225-2255 Childs Road Terminus of Childs Road. (*Josh Williams, 651/266-6659*)

#12-115-857 Good Guys Auto Body – Re-establishment of nonconforming use as an auto body shop. 744 3<sup>rd</sup> Street East, SW corner at Maple. (*Bill Dermody, 651/266-6617*)

**V. Comprehensive Planning Committee**

**VI. Neighborhood Planning Committee**

West Side Flats Master Plan and Development Guidelines – Adopt resolution initiating the update of West Side Flats Master Plan and Development Guidelines; creating a community task force; and initiating a zoning study for the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the south. (*Lucy Thompson, 651/266-6578*)

**VII. Transportation Committee**

Planning Director  
Donna Drummond

Pat Connolly  
Daniel Edgerton  
Gene Gelgelu  
William Lindeke  
Gaius Nelson  
Rebecca Noecker  
Christopher Ochs  
Trevor Oliver  
Julie Perrus  
Marilyn Porter  
Tony Schertler  
Emily Shively  
Robert Spaulding  
Terri Thao  
Jun-Li Wang  
David Wickiser

**VIII. Communications Committee**

**IX. Task Force/Liaison Reports**

**X. Old Business**

**XI. New Business**

**XII. Adjournment**

Information on agenda items being considered by the Planning Commission and its committees can be found at [www.stpaul.gov/ped](http://www.stpaul.gov/ped), click on Planning.

Planning Commission Members: PLEASE call Sonja Butler, 651/266-6573, if unable to attend.

**Saint Paul Planning Commission &  
Heritage Preservation Commission  
MASTER MEETING CALENDAR**

**WEEK OF NOVEMBER 12-16, 2012**

**Mon (12)** **VETERANS DAY HOLIDAY – OFFICE CLOSED**



**Tues (13)**  
3:30- Comprehensive Planning Committee **HAS BEEN CANCELLED**  
5:00 p.m. (*Merritt Clapp-Smith, 651/266-6547*)

**Weds (14)**

**Thurs (15)**  
5:00 p.m. **Heritage Preservation Commission**  
**Room 40 City Hall**  
Lower Level  
Enter building on 4<sup>th</sup> Street  
15 W. Kellogg Blvd.

**Public Hearings**

**225 W. Seventh Street, Individual Heritage Preservation Site**, by owner, Patrick Boemer, for an After-the-Fact building permit to construct an entry canopy on the side elevation. File #13-005 (*Dermody, 651/266-6617*)

**Old Business**

**West Side Community Plan**, by the Department of Planning and Economic Development, to adopt a resolution with recommendations for the Planning Commission and City Council. File #12-WSCP. (*Spong, 651/266-6714*)

**Fri (16)**  
8:00 a.m. **Planning Commission Steering Committee**  
(*Donna Drummond, 651/266-6556*)

**Room 41 City Hall**  
Conference Center  
15 Kellogg Blvd.

8:30- **Planning Commission Meeting**  
11:00 a.m. (*Donna Drummond, 651/266-6556*)

**Room 40 City Hall**  
Conference Center  
15 Kellogg Blvd.

**Zoning..... SITE PLAN REVIEW** – List of current applications. (*Tom Beach, 651/266-9086*)

**OLD BUSINESS**

#12-109-252 Hip Hounds Inc – Establishment of legal nonconforming use as a dog daycare with outdoor relief/exercise area. 1752 Grand Avenue between Wheeler and Fairview. (*Michelle Beaulieu, 651/266-6620*)

**NEW BUSINESS**

#12-202-256 Metropolitan Council Environmental Services – Conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill. 2225-2255 Childs Road Terminus of Childs Road. (*Josh Williams, 651/266-6659*)

#12-115-857 Good Guys Auto Body – Re-establishment of nonconforming use as an auto body shop. 744 3<sup>rd</sup> Street East, SW corner at Maple. (*Bill Dermody, 651/266-6617*)

**Neighborhood Planning**

**Committee.....** West Side Flats Master Plan and Development Guidelines – Adopt resolution initiating the update of West Side Flats Master Plan and Development Guidelines; creating a community task force; and initiating a zoning study for the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the south. (*Lucy Thompson, 651/266-6578*)



**Saint Paul Planning Commission  
City Hall Conference Center  
15 Kellogg Boulevard West**

**Minutes November 2, 2012**

A meeting of the Planning Commission of the City of Saint Paul was held Friday, November 2, 2012 at 8:30 a.m. in the Conference Center of City Hall.

**Commissioners Present:** Mmes. Noecker, Perrus, Porter, Reveal, Shively, Thao, Wencl; and Messrs. Edgerton, Gelgelu, Lindeke, Nelson, Ochs, Oliver, Schertler, Spaulding, Ward, and Wickiser.

**Commissioners Absent:** Mmes. \*Merrigan, \*Wang, and Messrs. \*Connolly, and Spaulding.

\*Excused

**Also Present:** Donna Drummond, Planning Director; Christina Morrison, Kate Reilly, Michelle Beaulieu, Scott Tempel, Bill Dermody, and Sonja Butler, Department of Planning and Economic Development staff.

**I. Approval of minutes October 19, 2012.**

**MOTION:** *Commissioner Reveal moved approval of the minutes of October 19, 2012. Commissioner Ward seconded the motion. The motion carried unanimously on a voice vote.*

**II. Chair's Announcements**

Chair Wencl had no announcements.

**III. Planning Director's Announcements**

Donna Drummond announced that today's agenda was revised. Instead of a presentation on Open Saint Paul there will be a presentation by Christina Morrison about the Streetcar Study. A presentation on Open Saint Paul will happen at a future meeting.

**IV. Zoning Committee**

**STAFF SITE PLAN REVIEW** – List of current applications. *(Tom Beach, 651/266-9086)*

One item came before the staff Site Plan Review Committee on Tuesday, October 30, 2012:

- Beacon Bluff Parcel 3 North, parking lot for existing building (Plans shows 2 phases: 127 spaces and 134 spaces) located at 900 Bush.

## **NEW BUSINESS**

#12-109-252 Hip Hounds Inc – Establishment of legal nonconforming use as a dog daycare with outdoor relief/exercise area. 1752 Grand Avenue between Wheeler and Fairview. (*Michelle Beaulieu, 651/266-6620*)

***Commissioner Nelson reported that the Zoning Committee laid this case over to the November 8, 2012 meeting.***

Commissioner Nelson announced the items on the agenda for the next Zoning Committee meeting on Thursday, November 8, 2012.

### **V. Comprehensive Planning Committee**

No report.

### **VI. Neighborhood Planning Committee**

West Side Community Plan – Recommendation to release for public review and set public hearing for December 14, 2012. (*Scott Tempel, 651/266-6621*)

Scott Tempel, PED staff, said that the West Side Community Plan was started by the West Side Community Organization in 2011. They completed their plan and forwarded it to staff for review and it is now ready to be released for public review and to set the public hearing on December 14, 2012.

Commissioner Noecker asked why there would be two public hearings on December 14<sup>th</sup> when the Commission had earlier discussed limiting the number of public hearings to one per meeting?

Donna Drummond, Director of Planning, said that staff asked that of the Neighborhood Planning Committee. It's a judgment call, as to how much testimony we think there would be for those two hearings, and the committee felt comfortable that the Planning Commission could handle two public hearings on these items. This seemed preferable to having a public hearing on December 28<sup>th</sup> or delaying it until January, so that was the recommendation of the committee.

***MOTION: Commissioner Oliver moved on behalf of the Neighborhood Planning Committee to release the draft for public review and set a public hearing on December 14, 2012. The motion carried unanimously on a voice vote.***

District del Sol Small Area Plan – Approve resolution recommending adoption to Mayor and City Council. (*Kate Reilly, 651/266-6618*)

Commissioner Perrus said that it does not look like there were any changes made in the resolution.

Donna Drummond, Director of Planning, said that the memo details the changes that were recommended for the plan.

Commissioner Edgerton said that this is a small area plan for District del Sol, which is part of the larger West Side Community Plan. Normally the bigger plan would have been done first to set the plan for the entire area, then the more detailed small area plan. Edgerton asked why the smaller plan is being forwarded first, before the larger plan.

Kate Reilly, PED staff, said that the District del Sol Small Area Plan was initiated by neighborhood organizations following a zoning study of that area. The plan is designed to be focused more on economic development activities, centered on three key sites in the district. Not long after the District del Sol Plan project got underway, the District Council initiated the West Side Community Plan. While developing the West Side Community Plan District Council staff researched all other relevant plans, including the District del Sol plan and incorporated the pertinent policies from those plans into the West Side Community Plan.

Commissioner Edgerton inquired into what is the point of having district-wide plans, if there are small area plans completed for similar areas.

Ms. Drummond said that small area plans are done when there is a need to look more intensively at a particular area in the city. Small area plans are typically done with more City staff support. District Councils also have a desire to do a plan that covers the entire geography of a district council area, so they do district plans. There are not small area plans that cover all of the West Side/District 3 area and they have not updated their plan for a long time, so they wanted to do a general update of the whole district plan. The District del Sol plan focused on key redevelopment parcels near Robert and Cesar Chavez that the community wanted more intensive review of and some assistance in thinking about what could happen there.

Commissioner Wickiser said in general the small area plan is guiding development and the over all District Plan is used in the context of Comprehensive Planning Committee meetings and Zoning Committee meetings in order to justify decisions in that manner.

Ms. Drummond thinks that both plans can be used in the same way. Staff have been trying to move toward - rather than updating existing small area plans when they become outdated (more than 10-years old) - encouraging District Councils to look at incorporating recommendations from the small area plans that have not been accomplished into the district plan. This was done with the District 6 Plan recently and there were a number of small area plans that were incorporated into the District 6 Plan update. This is the direction staff wants to pursue, but there will still be cases where more intensive planning work around a particular sub area of a planning district is desired, and we will continue to have both small area plans and district plans.

Commissioner Lindeke asked if the West Side Community Plan looked at and incorporates the District del Sol plan, and if the community got a chance to see the District del Sol plan as part of their process.

Ms. Drummond said that they did look at that and there were people who were active in both planning efforts.

Ms. Reilly added that you'll also find that some of the exact policies in the District del Sol Plan show up in the West Side Community Plan.

**MOTION:** *Commissioner Oliver moved on behalf of the Neighborhood Planning Committee to recommend approval of the resolution and forward to the Mayor and City Council for adoption of this plan. The motion carried unanimously on a voice vote.*

Highland Village Special District Sign Plan Amendments – Release for public review and set a public hearing for December 14, 2012.

Kate Reilly, PED staff, said that the plan was originally drafted and adopted by the City Council in 1986. In 2011 both the Highland Business Association and the Highland District Council requested that the sign plan be updated in part to prohibit dynamic display signs. A task force and study was initiated in 2011. The task force met and discussed potential changes to the plan for nine months in 2011 and 2012. The proposed substantive changes are that the enforcement area will be expanded to include the Ford site and up to Snelling Avenue along Ford Parkway. This allows the plan to be applied to the Super America station on the corner of Snelling and Ford Parkway. The allowed square feet of sign area is reduced in the proposed amendments from (2) times the lineal feet of frontage or 75 square feet whichever is greater to (1) times the lineal feet of lot frontage or 75 square feet whichever is greater. This is the same for traditional neighborhood, office service and B1 business districts. The maximum area of freestanding and wall signs was reduced from 32 square feet to 24 square feet. Permanent window signs would not exceed 10% and temporary window signs would not exceed 20% of the store window glass area. Portable signs area was reduced from 300 square feet to 36 square feet, which is the same for other lots that have a frontage of less than 330 feet. Also note that portable signs are prohibited in the right-of-way city-wide; they must be on the business owners' property. Dynamic display signs are prohibited.

Commissioner Ward said that there was no mention about flashing signs and there are a lot of businesses on University Avenue that have flashing signs and rope lighting which is somewhat distracting, but it's not discussed in this particular part of the sign regulations. Is that going to be addressed as this moves forward?

Ms. Reilly said that flashing signs are prohibited citywide, so if you see a flashing sign contact the Department of Safety and Inspections (DSI) and let them know. That was part of the initial sign amendments that were done in 2009 and 2010. The rope lighting is not a sign and she has talked to DSI about how to address this, but they have not come up with a solution so they will need to address this probably in the lighting section of the code.

Commissioner Reveal asked if this is more restrictive than the citywide signage regulations considered about a year ago.

Ms. Reilly stated that this is more restrictive. In addition, she noted that there are special sign districts for almost every planning district focused around a business district. Special District Sign Plans do have the ability to become more restrictive than the general zoning code and there's probably a desire to move away from special sign districts and just have the existing new more restrictive zoning code regulations that have already been established take precedence.

Ms. Drummond thinks that special sign districts have evolved because there has been a desire by the business community and the community in general for these business areas to have different standards for signage.

Commissioner Noecker asked if this would take effect immediately, would it apply to both existing and new signs, and what the plan is for enforcement.

Ms. Reilly said that it is a zoning code amendment and has to go through City Council. This will be forwarded to City Council after the Planning Commission's public hearing and recommendation. There also will be signs that are grandfathered in, which creates maybe a half dozen nonconforming signs that are grandfathered in until the signs are rebuilt. And as for enforcement, one of the things that the special sign district adds is a requirement that the district council be notified and sent plans of the sign, when there is a new sign permit pulled. Then the district council will have more oversight for the signage and more ability to work with the applicant to come up with signage that's appropriate. Otherwise enforcement is done on a complaint basis.

***MOTION: Commissioner Oliver moved on behalf of the Neighborhood Planning Committee to release the draft for public review and set a public hearing on December 14, 2012. The motion carried unanimously on a voice vote.***

Commissioner Oliver announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, November 7, 2012.

**VII. Saint Paul Streetcar Study – Informational presentation by Christina Morrison, PED.**  
(Christina Morrison, 651/266-6546)

Christina Morrison, PED staff gave a "Streetcar 101" presentation related to the work beginning on the citywide Streetcar Feasibility Study.

Commissioner Ward asked which lines would be studied. Ms. Morrison responded that the evaluation had not yet begun, but that the universe of options would include streets identified on the adopted Preferred Transit Network map, historic streetcar corridors, and areas designated as "Mixed Use" or "Residential Corridors" in the 2030 Land Use map.

Commissioner Ward asked if it is anticipated that businesses would be supportive given the recent hardships with LRT construction. Ms. Morrison noted the differences between streetcar and LRT construction, and that the former is generally built much more quickly, and is less impactful to businesses.

Commissioner Noecker asked about advantages to streetcar over regular route bus service or branded bus service. Ms. Morrison outlined some of the advantages seen elsewhere in ridership due to the presence and permanence of a rail investment, as well as the potential economic development benefits not typically seen with local bus service.

Commissioner Nelson noted that ridership and demand were big considerations with regards to getting LRT funded. He asked how streetcars can be funded if a primary goal is development, or future ridership. Ms. Morrison explained some of the changing goals of the Federal Transit Administration, and the increasing emphasis being put on transit-oriented development, planning, and zoning.

Commissioner Schertler noted a concern that streetcars primarily benefit adjacent real estate investment, as opposed to general economic development, and questioned if high amenity routes

help fund our transit needs in the region. He asked about Metro Transit's position on the mode. Ms. Morrison discussed that the City is working closely with Metro Transit to develop a spectrum of urban bus and rail projects to help meet our region's transit needs, noting that streetcars are one tool that can provide reliable service in the complex, constrained right of ways of an urban area.

Commissioner Porter asked who streetcars would attract to transit. Ms. Morrison noted that modern streetcar systems tend to attract non-work trips, broadening the use of transit throughout the day, evening, and on weekends.

Commissioner Ward noted that it would be helpful to see the cost benefit analysis between streetcar, bus and BRT, including operations and maintenance costs.

Chair Wencil asked if West 7<sup>th</sup> would be considered given the past opposition to transit investment in that area. Ms. Morrison noted that staff has been working closely with the district councils and councilmembers to see if there is interest for a streetcar and/or Rapid Bus project on West 7<sup>th</sup>.

Chair Wencil asked if interlining LRT and a streetcar would reduce the overall economic development. Ms. Morrison noted that the idea of potentially using LRT tracks would be for a shorter application, for example, to access the maintenance facility in Lowertown.

Commissioner Porter added that the streetcar presentation should discuss air quality and potential improvements.

Donna Drummond, Planning Director, asked if Ms. Morrison could talk a little about the process. Ms. Morrison briefly outlined the organizational structure of the project, as well as some of the current work items.

#### **VIII. Transportation Committee**

Christina Morrison, PED staff, announced the items on the agenda for the next Transportation Committee on Monday, November 5, 2012.

#### **IX. Communications Committee**

No report.

#### **X. Task Force Reports**

Kate Reilly, PED staff, reported that the Near East Side Task Force met on Monday, 10/29/12. On the agenda were updates about the Hamms Brewery site and the Make it Happen on East 7<sup>th</sup> Street Initiative. The Beacon Bluff Advisory Committee also met and their update was about Building 21. Sale of the building closed on Wednesday, October 31<sup>st</sup>, so now the work will begin on that building.

Donna Drummond, Planning Director, reported that the Ford Task Force met on Monday and heard a presentation on the zoning framework study that is underway. A report by the consultants will be finalized in the next few months and will be presented to the Planning Commission thereafter.

**XI. Old Business**

None.

**XII. New Business**

None.

**XIII. Adjournment**

Meeting adjourned at 10:00 a.m.

Recorded and prepared by  
Sonja Butler, Planning Commission Secretary  
Planning and Economic Development Department,  
City of Saint Paul

Respectfully submitted,



\_\_\_\_\_  
Donna Drummond  
Planning Director

Approved \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Daniel Ward II  
Secretary of the Planning Commission



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

## SITE PLAN REVIEW COMMITTEE

Tuesday, November 13, 2012  
2nd Floor Conference Room  
375 Jackson Street, Suite 218

<u>Time</u>	<u>Project Name and Location</u>
9:00	Aurora Day Care parking lot and storm drain plan 1048 Aurora Avenue
9:30	Summit Brewery 7900 sf Addition to Brewrey 910 Montreal Circle
10:10	Macalester Fine and Performing Arts Center Phase 2 Art Building addition and renovation 130 Macalester Street

### **Applicants should plan to attend this meeting.**

At this meeting you will have a chance to discuss the site plan for your project with Saint Paul's Site Plan Review Committee. The Committee is made up of City staff from Zoning, Traffic, Sewers, Water, Public Works, Fire, and Parks. You are encouraged to bring your engineer, architect, or contractor with you to handle any technical questions raised by city staff. The purpose of this meeting is to simplify the review process by letting the applicant meet with staff from a number of departments at one time. Staff will make comments and ask questions based on their review of the plans. By the end of the meeting you will know if the site plan can be approved as submitted or if revisions will be required. Staff will take minutes at the meeting and send you a copy.

### **Parking**

A few free parking spaces are available in our visitor parking lot off of 6<sup>th</sup> Street at Jackson. Parking is also available at on-street meters. The closest parking ramp is on Jackson one block south of our office between 4<sup>th</sup> and 5<sup>th</sup> Street.

If you have any questions, please call Tom Beach at 651-266-9086 or [tom.beach@ci.stpaul.mn.us](mailto:tom.beach@ci.stpaul.mn.us).





CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

## SITE PLAN REVIEW COMMITTEE

Tuesday, November 20, 2012  
2nd Floor Conference Room  
375 Jackson Street, Suite 218

<u>Time</u>	<u>Project Name and Location</u>
9:00	Prosperity Heights Elementary School 1305 Prosperity New parking lot
9:30	Custom Renovations 1464 Selby New contractors shop and parking lot
10:30	Johnson Brothers Liquor 1999 Shepard Road 70,000 square foot addition to existing warehouse

### **Applicants should plan to attend this meeting.**

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If you have any questions, please call Tom Beach at 651-266-9086 or [tom.beach@ci.stpaul.mn.us](mailto:tom.beach@ci.stpaul.mn.us).

**\*REVISED 11/5/12**

**AGENDA  
ZONING COMMITTEE  
OF THE SAINT PAUL PLANNING COMMISSION  
Thursday, November 8, 2012 3:30 P.M.  
City Council Chambers, Room #300  
Third Floor City Hall - Saint Paul, Minnesota**

**NOTE:** The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

**APPROVAL OF OCTOBER 25, 2012, ZONING COMMITTEE MINUTES**

**SITE PLAN REVIEW** – List of current applications (Tom Beach, 651-266-9086)

**OLD BUSINESS**

- 1      12-109-252   Hip Hounds Inc**  
Establishment of legal nonconforming use as dog daycare with outdoor relief/exercise area  
1752 Grand Avenue, between Wheeler and Fairview  
Michelle Beaulieu      651-266-6620

**NEW BUSINESS**

- 2      12-202-256   Metropolitan Council-Environmental Services**  
Conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill.  
2225-2255 Childs Road  
Josh Williams 651-266-6659
- 3      ~~12-116-679   William Mitchell College of Law~~      POSTPONED TO DECEMBER 6, 2012**  
~~Conditional use permit for expansion of campus boundary~~  
~~918 Portland Ave/46 Milton St N and 889 Portland Ave, between Milton and Victoria~~  
~~R2~~  
~~Michelle Beaulieu      651-266-6620~~
- 4      12-115-857   Good Guys Auto Body**  
Reestablishment of nonconforming use as an auto body shop  
744 3rd St E, SW corner at Maple  
B2  
Bill Dermody 651-266-6617

**DISCUSSION**

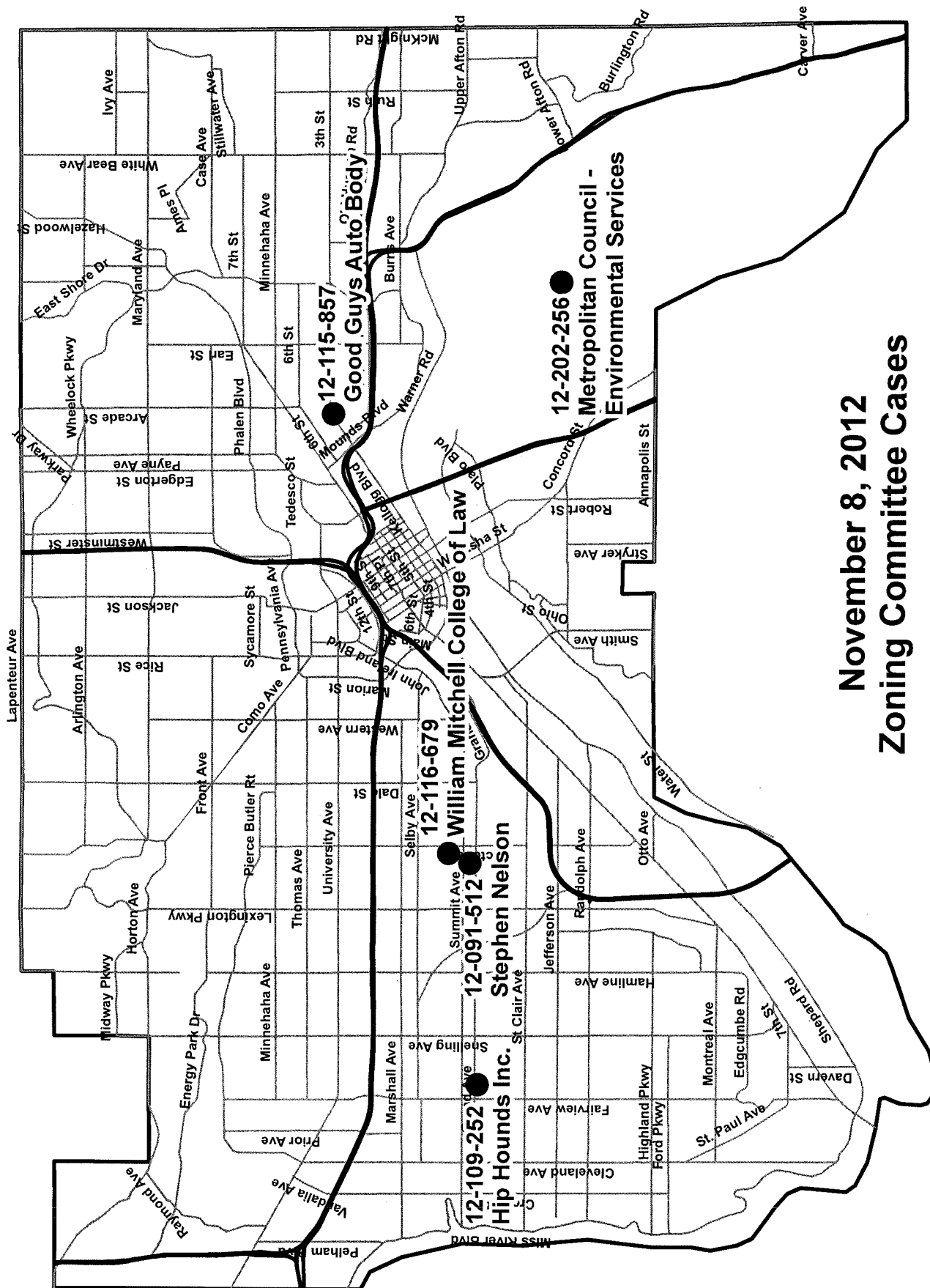
- 12-091-512   Stephen Nelson**  
Review of external modifications per permit conditions  
19 Milton St S, between Summit and Grand

**ADJOURNMENT**

Information on agenda items being considered by the Zoning Committee can be found online at [www.stpaul.gov/ped](http://www.stpaul.gov/ped), then Planning, then Zoning Committee.

**ZONING COMMITTEE MEMBERS:** Call Patricia James at 266-6639 or Samantha Langer at 266-6550 if you are unable to attend the meeting.

**APPLICANT:** You or your designated representative must attend this meeting to answer any questions that the committee may have.



## November 8, 2012 Zoning Committee Cases



CITY OF SAINT PAUL  
*Christopher B. Coleman, Mayor*

*25 West Fourth Street  
Saint Paul, MN 55102*

*Telephone: 651-266-6700  
Facsimile: 651-228-3220*

DATE: November 7, 2012  
TO: Zoning Committee  
FROM: Michelle Beaulieu, PED  
[Peter Warner, CAO]  
RE: **Z. F. # 12-109-252 Hip Hounds Inc.**  
**1752 Grand Avenue**

### **Background**

On October 25, 2012, the Zoning Committee held a public hearing on an application by Hip Hounds Inc., d/b/a Dog Days for a permit to establish a legal nonconforming use for a commercial animal daycare with an outdoor relief/exercise area at 1752 Grand Avenue. The Committee closed the public hearing and directed staff to provide further information pertaining to the license history of this business and the Zoning Administrator's statement of clarification regarding commercial animal daycare use.

In response to the Committee's direction, zoning staff from PED and DSI, together with staff from the City Attorney's Office, met on two occasions to review specifically the Committee's directives. Based upon the meetings, the staff recommendation to deny the establishment of legal nonconforming use has not changed. In response to the Committee's direction, you will find below additional zoning and licensing information regarding this application.

### **Licensing History at 1752 Grand Avenue as Provided by DSI-Licensing**

On or about August 26, 1999, Steven Shultz, having obtained a license for a Pet Grooming Facility from DSI-Licensing, opens Dog Days, Inc., d/b/a Dog Days, at 1752 Grand Avenue. Pet grooming facilities are required to be licensed under Leg. Code Chap. 382. However, pet boarding is not a use regulated through licensing in 1999. Pet boarding did not become a use subject to licensing until the enactment of Leg. Code Chap. 348 on June 25, 2008.

Leg. Code § 310.03 requires DSI-Licensing to submit all new license applications to DSI-Zoning for a zoning compliance review. New licenses will not be granted unless the proposed use fully complies with the zoning code. Id. Whether or not the 1999 license issued to Schultz was vetted by DSI-Zoning for pet grooming or pet boarding is not clear from DSI-Licensing's records.

Wendy Harter [the NCUP applicant here] subsequently acquires Dog Days from Steven Schultz. Under Leg. Code § 310.11(a), licenses issued by DSI are not transferable. Accordingly, Harter, on October 10, 2005, duly applies to DSI-Licensing for a Pet Grooming Facility license to operate at 1752 Grand Avenue under the name Hip Hounds, Inc., d/b/a Dog Days. Harter's Pet Grooming Facility license application states that the uses at 1752 Grand Ave, in addition to pet grooming, also include the retail sale of pet food and "dog daycare services."

Upon receiving Harter's Pet Grooming Facility license, DSI-Licensing cancels the Pet Grooming Facility license that had been issued to Steven Schultz. As required by Leg. Code § 310.03, DSI-Licensing forwards Harter's license application to DSI-Zoning for a zoning compliance review.

DSI-Zoning reviews Harter's application and on October 18, 2005, approves Harter's pet grooming use but specifically states on the application form that dog daycare is not a permitted use at the 1752 Grand Avenue.

On November 9, 2005, DSI Licensing, pursuant to Leg. Code § 310.06(c) issues a Pet Grooming Facility license to Hip Hounds, Inc., d/b/a Dog Days at 1752 Grand Avenue. For practical purposes, DSI-Licensing backdates the license to October 11, 2005 in order to reflect the date Harter first submitted the license application. The October 11, 2005 license is issued specifically subject to the following condition based upon the zoning compliance review: "1. Dog grooming only. Dog Daycare is not permitted" which simply restates the fact that the zoning code did not allow dog daycare at 1752 Grand Avenue.

On or about December 20, 2007, DSI-Licensing records show that it received a complaint regarding dog daycare operating at the back of the building at 1752 Grand Avenue. DSI's records show that the inspector checked the permits and license for this address and noted that no permit or license exists for "the keeping of animals" at the address.

On December 28, 2007, and in response to the complaint, a DSI license inspector went to 1752 Grand Avenue specifically to conduct "a license condition compliance inspection." The DSI inspector's notes state: License conditions inspections performed; in compliance."

As noted above, the City Council, on June 25, 2008, enacted Leg. Code Chap 348 requiring a license to conduct Animal Day Care or Animal Boarding. Because the Licensing Code may be applied retroactively, the provision of Animal Day Care or Animal Boarding services now requires a City license. The property at 1752 Grand Avenue has never received an Animal Day Care license.

On July 18, 2012, DSI receives two complaints regarding the 1752 Grand Avenue location. The complaints variously allege that "Hip Hounds is now using their business as a doggie day care. Considerable noise from the business" and "Doggie daycare is open from 6am – 6pm and they have up to 18 dogs at one time rotating the dogs in and out throughout day. This is an issue of dogs constantly barking and apartment residents with windows/walls on the same side

of business being constantly disturbed. Is this place properly licensed for doggie daycare/how many dogs can they have.”

On July 20, 2012, a DSI-License inspector observes “in excess of 10 dogs on the premises, the back yard set up as a playground for dogs, dog day care rates posted, and the Pet Grooming Facility license with the restriction on dog daycare posted on the wall. The inspector asked the employee to have the business owner contact DSI.

On August 2, 2012, DSI-Licensing issues orders to Harter to either obtain DSI-Zoning approval to operate a Dog Daycare along with the appropriate License or discontinue the Dog Daycare use at 1752 Grand Avenue.

On August 13, 2012, invoice to renew the Pet Grooming Facility license at 1752 Grand Avenue is sent to Harter.

On August 20, 2012, Harter submits Animal Daycare renewal application to DSI-Licensing.

On September 24, 2012, Harter submits the presently pending Non Conforming Use Permit application to DSI-Zoning.

On October 10, 2012, Harter submits fee to renew Pet Grooming Facility license at 1752 Grand Avenue. On October 11, 2012, the Pet Grooming Facility license for 1752 Grand Avenue is reissued subject to the condition stating: “1. Dog grooming only. Dog Daycare is not permitted.” According to DSI-Licensing staff, this condition has been included on every annual license renewal issued to Harter for the 1752 Grand Avenue location since the first license was issued to her on October 11, 2005.

### **Zoning History at 1752 Grand Avenue**

Harter’s Non Conforming Use Permit application under PED Zoning File No. 12-109-252 is pending. The staff recommendation as set forth in its Report dated October 17, 2012 is to deny the application. The Zoning Committee conducted the required public hearing on the application, closed the hearing and then laid over its decision pending the receipt of this report from staff. As noted above, the staff recommendation to deny the application remains in place.

### **Zoning History Regarding Similar Uses Provided by the Zoning Administrator**

On January 25, 2006, Wendy Harter applied for a Determination of Similar Use (“DSU”) from the Planning Commission regarding property at 1481 Marshall Avenue which is located in an I1 industrial district. The DSU request asked whether “dog daycare and overnight boarding” - specific used not listed in the zoning code and therefore, under Leg. Code § 66.101(c) not permitted - was a use (or uses) similar to a Veterinary Clinic (listed at § 65.413) or a Pet Shop (listed at § 65.510(m)).

On or about February 3, 2006, Harter's DSU application was returned to her by PED-Zoning because the DSU request was premature under the Zoning Code's specific process for dealing with DSU applications. That process, described in Leg. Code § 61.106 entitled "similar use determination," states in relevant part:

"When a specific use is not listed in the zoning code, the zoning administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated herein. Such statement of clarification shall include the findings that led to such conclusion and shall be filed in the office of the zoning administrator. If the zoning administrator finds that the use is not sufficiently similar to any other use specifically listed and regulated in the zoning code, any person proposing such use may file an application for the planning commission . . . ."

Because the Zoning Administrator had not issued the required Statement of Clarification, action on the DSU request by the Planning Commission would have violated the procedural process set forth in Leg. Code § 61.106. Nevertheless, PED-Zoning provided Harter's supporting materials to the Zoning Administrator. Although no formal request for a Statement of Clarification was made, it is possible but not certain, based on PED-Licensing's records, that the Zoning Administrator issued a Statement of Clarification for the 1481 Marshall Avenue site. Hip Hounds did not open for business at 1481 Marshall Avenue.

On February 7, 2007, the Zoning Administrator, in response to a Statement of Clarification request regarding a proposal to open an animal daycare facility in the B5 zoning district by an entity d/b/a Lowertown Dogs, issued a Statement animal daycare for dogs and cats is similar to industrial zoning districts uses. The Statement of Clarification is attached to this memorandum.

In May 2007, consistent with Leg. Code § 61.106, Lowertown Dogs, sought and obtained a from the Planning commission a Determination of Similar Use that an animal daycare facility is similar to other uses permitted in B5 Central Business-Services District at 443 Wall Street. Lowertown Dogs never opened at that location. A copy of that Determination of Similar Use is attached to this memorandum.

Based on the above zoning determinations, an animal day care is a use that is similar to and therefore could be permitted in the following zoning districts: I1-3 and B5.

#### **Animal Daycare in Other Jurisdictions**

Other jurisdictions have or are dealing with similar issues regarding where to locate animal daycare under existing zoning regulations. These jurisdictions determinations have ranged in their findings regarding animal daycare as a use from pet grooming facilities to animal shelters to kennels. These jurisdictions also impose restrictive licensing conditions on animal daycare businesses, including but not limited to: requiring soundproofed buildings, limiting business hours, limiting the numbers of animals, and, in particular heavily regulating the use of outdoor spaces (including hours, number of animals, supervision and cleaning), etc. As a general rule, animal daycare uses are not encouraged on sites adjacent to residential uses.

Minneapolis: The Minneapolis zoning code does not specifically list dog day care as a use, but it has been determined to be substantially similar to an animal shelter by the zoning administrator. An animal shelter requires a conditional use permit in the I2 district.

Portland, Oregon: In Portland, "a doggie day care may be classified as either a "retail sales and service" or a "kennel" under the zoning code. That allows some flexibility as to location in either commercial zones or in industrial zones."  
<http://www.portlandonline.com/bds/index.cfm?c=49428>

Seattle: Pet daycare businesses are not currently included in the City's land use regulations. There are "proposed code provisions [that] would define pet daycare centers as retail sales and service uses that may include boarding. They would be permitted in all commercial, downtown and industrial zones. Standards would limit the area devoted to boarding, identify measures to control potential noise and odors and require parking and loading spaces."  
[http://www.seattle.gov/dpd/Planning/Pet\\_Daycares/Overview/](http://www.seattle.gov/dpd/Planning/Pet_Daycares/Overview/)

### **Conclusion**

The Pet Grooming Facility licenses issued annually to 1752 Grand Avenue since 2005 have specifically provided that dog daycare is not permitted at the site. The restriction on the licenses has never been contested. Whether dog daycare took place at 1752 Grand Avenue from 1999 through 2005 might be reasonably debatable. However, by testimony and by complaint, the annual license restriction on dog daycare at the site appears to have never been observed. The staff report's recommendation to deny the NCUP has not changed based upon the additional information set forth in this memorandum.

cc: Peter Warner, CAO  
Daphne Lundstrom, CAO



February 7, 2007

## **STATEMENT OF CLARIFICATION**

### **ANIMAL DAYCARE**

Animal daycare is not specifically listed as a permitted use under the City's Zoning Code. When a use is not specifically listed, the City's Zoning Administrator will make a determination as to where the use fits within the Zoning Code. The Zoning Administrator has determined that an animal daycare (dogs and cats only) commercial use is similar to other uses in the IR, I1, and I2 zoning districts. Within the IR and I1 districts the use would be an indoor use only. The entire operation must be located within a completely enclosed building. Within the I2 district the use may have an accessory outdoor, fenced run/relief area provided the property does not adjoin a property occupied by a residential use. The outdoor run/relief area shall be supervised when any animals are occupying this area.

The Zoning Administrator has also determined that an animal daycare as a Home Occupation is permitted for dogs and cats only, with up to a total of three (3) animals.

There are currently no provisions in the City's Licensing Code for Animal Daycares. We are currently in the process of revising the City's licensing ordinance to include licenses for Animal Daycare (Home location) and Animal Daycare (Commercial location-petition required).

Jeffrey J. Hawkins  
LIEP Inspector III

## **ZONING COMMITTEE STAFF REPORT**

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|---|--|
| 1. <b>FILE NAME:</b> Lowertown Dogs   | <b>FILE #</b> 07-064-978                         |
| 2. <b>APPLICANT:</b> Joe Alstatt  | <b>HEARING DATE:</b> May 10, 2007                |
| 3. <b>TYPE OF APPLICATION:</b> Determination of Similar Use   |  |
| 4. <b>LOCATION:</b> 443 Wall St, between 7 <sup>th</sup> St. & 8 <sup>th</sup> St.  |  |
| 5. <b>PIN &amp; LEGAL DESCRIPTION:</b> 312922440015; WHITNEY AND SMITHS ADDITION TO ST. PAUL EX SELY 8 FT FOR ALLEY LOT 3 BLK 3 |  |
| 6. <b>PLANNING DISTRICT:</b> 17   | <b>EXISTING ZONING:</b> B5                       |
| 7. <b>ZONING CODE REFERENCE:</b> '61.106  |  |
| 8. <b>STAFF REPORT DATE:</b> April 30, 2007   | <b>BY:</b> Luis Pereira                          |
| 9. <b>DATE RECEIVED:</b> April 19, 2007   | <b>60-DAY DEADLINE FOR ACTION:</b> June 18, 2007 |
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- A. **PURPOSE:** Determine if animal day care is similar to other B5 Central Business-Service District uses.
- B. **PARCEL SIZE:** 6,000 sq. ft. (0.14 acres)
- C. **EXISTING LAND USE:** Commercial building, used for manufacturing of coil springs
- D. **SURROUNDING LAND USE:**  
North: Retail/Commercial use, Interstate Highway right-of-way (B5)  
East: Interstate Highway right-of-way (B5)  
South: Retail/Commercial use (B5)  
West: Retail/Commercial use (B5)
- E. **ZONING CODE CITATION:** ' 61.106 authorizes the Zoning Administrator and the Planning Commission to make similar use determinations when a specific use is not listed in the Zoning Code, and lists specific findings that must be made.
- F. **HISTORY/DISCUSSION:** Because animal daycare is not specifically listed in the Zoning Code, under the provisions of § 61.106 the Zoning Administrator issued a statement of clarification on February 7, 2007, permitting animal daycare for dogs and cats in industrial zoning districts (attached). The statement of clarification says that animal daycare in more restrictive zoning districts must be reviewed by the Planning Commission to determine if they are similar to other uses permitted in that district.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 17 Council had not provided written comments on this application at the time of this report.
- H. **FINDINGS:**
1. The applicant/property owner requests that the Planning Commission determine that animal day care is similar to other uses permitted in the B5 Central Business-Service District. The applicant/property owner intends to lease the building to the operators of the business, who plan on using it for a day care, grooming and training facility for dogs. In addition, the business owners intend to use a portion of the adjacent property to the southwest along Wacouta Street for a fenced-in outdoor relief area for the pets (the size of two parking spaces), for which the applicant has received verbal approval from that landowner.

2. § 61.106 states: "When a specific use is not listed in the zoning code ... any person proposing such use may file an application for the planning commission to determine if a use is or is not similar to other uses permitted in each district. The ... planning commission shall make the following findings in determining one use is similar to another:

- (a) *That the use is similar in character to one (1) or more of the principal uses permitted.* This finding is met. Animal day care is consistent with the intent of the B5 Central Business-Service District in § 61.106: *"The B5 Central Business-Service District is intended to provide necessary services for the population area which is served by all of the previous business districts. Such service establishments often involve objectionable influences, such as noise from heavy service operations and large volumes of truck traffic, and are thus incompatible with the previous business districts. The district provides for . . . business uses which are needed in proximity to the Central Business District and require central location to permit serving the entire city."* Animal day care is needed to serve downtown residential uses. Noise associated with the proposed fenced outdoor relief area for the pets is not likely to approach the level of noise created by heavy service operations and large volumes of truck traffic involved with some uses permitted in the B5 district. Uses permitted in the B5 district include public utility heating or cooling plant, drive-through sales and services, outdoor restaurant, auto service station, auto repair station, recycling drop-off station, warehousing, and storage. At this particular location the noise from I-94 is likely to drown out much of the pet noise generated by the outdoor relief area.
- (b) *That the traffic generated by such use is similar to one (1) or more of the principal uses permitted.* This finding is met. Animal day care in the B5 district will primarily serve the downtown residential market, some pet-owners will walk their pets to the site, and it is not likely to result in much traffic in the area. For pet owners from outside of downtown, the B5 district has a central location and excellent access from arterial streets. The use will generate relatively small amounts of traffic, mostly drop-off and pick-up car traffic during rush hours, similar to day care centers for kids (permitted in the B5 and more restrictive zoning districts). The amount of traffic generated by animal day care is less than many of the uses permitted in the B5 district.
- (c) *That the use is not first permitted in a less restrictive zoning district.* The finding is met. Animal daycare is not listed in the Zoning Code.
- (d) *That the use is consistent with the comprehensive plan.* The proposed use is consistent with Objectives 5.1.1, 5.2.1, and 4.2.2 of the Land Use chapter of the City's Comprehensive Plan. Objective 5.1.1 indicates that "good neighborhoods" have "a mixture of land uses." Objective 5.2.1 calls for compatible "mixed uses... in separate buildings in close proximity." Objective 4.2.2 calls for the continuous evolution of Downtown Saint Paul, including office, retail, government, culture, entertainment, visitor accommodations, and housing. Animal day care is needed to serve the downtown residential market, and is consistent with these Land Use Plan objectives.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends a determination that animal day care is similar to other B5 Central Business-Service District uses.

**CITY OF SAINT PAUL, MINNESOTA**  
(Determination of Similar Use)

ZONING FILE NO: 07-064-978

APPLICANT: Lowertown Dogs, Joe Altstatt

PURPOSE: Determination that dog day care is similar to other B5 Central Business-Service District uses

LOCATION: 443 Wall St., between 8th & 7th St.

LEGAL DESCRIPTION: PIN 312922440015, WHITNEY AND SMITHS ADDITION TO ST. PAUL EX SELY 8 FT FOR ALLEY LOT 3 BLK 3

ZONING COMMITTEE ACTION: Recommended approval with condition(s)

PLANNING COMMISSION ACTION: Approved with conditions on May 18, 2007

CONDITIONS OF THIS PERMIT: Conditions specified in Sec. 61.106 and the following additional conditions:

1. The applicant must provide a fenced-in outdoor relief area for the business.
2. The applicant must provide prompt and proper disposal of waste, pursuant to a plan that must be submitted to, reviewed and approved by the Department of Safety and Inspections.
3. There shall be no overnight boarding of animals.

APPROVED BY: Brian Alton, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on May 18, 2007 and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

**This permit will expire two years from the date of approval if the use herein permitted is not established.**

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1400 City Hall Annex, 25 West Fourth Street. **Any such appeal must be filed within 10 calendar days of the date of the Planning Commission's decision.**

**Violation of the conditions of this permit may result in its revocation.**

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Carol A. Martineau  
Secretary to the Saint Paul  
Zoning Committee

Copies to:

Applicant	Lowertown Dogs, Joe Altstatt
File No.	07-064-978
Zoning Administrator	Wendy Lane
License Inspector	Christine Rozek
District Council	17

Mailed: May 18, 2007

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Metropolitan Council-Environmental Services **FILE #** 12-202-256
  2. **APPLICANT:** Metropolitan Council **HEARING DATE:** November 8, 2012
  3. **TYPE OF APPLICATION:** Conditional Use Permit
  4. **LOCATION:** 2225 Childs Road (terminus)
  5. **PIN & LEGAL DESCRIPTION:** 092822140002, Port Authority Plat No. 3 SLY 140 Ft of Lot 6 and all of Lot 7 Blk 5
  6. **PLANNING DISTRICT:** 1 **PRESENT ZONING:** FF, I2
  7. **ZONING CODE REFERENCE:** § 72.32; § 61.501; § 61.502
  8. **STAFF REPORT DATE:** October 29, 2012 **BY:** Josh Williams
  9. **DATE RECEIVED:** October 18, 2012 **60-DAY DEADLINE FOR ACTION:** December 17, 2012
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- A. **PURPOSE:** Conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill.
- B. **PARCEL SIZE:** 194,713 sq. ft. or 4.47 acres; irregular shape; approx. 600 ft river frontage
- C. **EXISTING LAND USE:** Industrial
- D. **SURROUNDING LAND USE:**
  - North: Industrial (I2)
  - East: Industrial (I2)
  - South: Industrial (I2)
  - West: Mississippi River
- E. **ZONING CODE CITATION:** §72.74 lists standards for conditional uses in the FF flood fringe district; §72.32 lists factors to be considered in evaluating applications for conditional use permits in floodplain management overlay districts; §61.501 lists general conditions that must be met by all conditional uses.
- F. **HISTORY/DISCUSSION:** IN 1994, a conditional use permit was issued for storage tanks not elevated on fill. In 2008 and again in 2011, conditional use permits were issued for catwalks and associated safety/fall protection systems elevated on an alternative to fill.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 1 Council has not made a recommendation as of the writing of this report.
- H. **FINDINGS:**

1. The applicant, the Metropolitan Council, is proposing to install a water quality monitoring station at a location just upstream of the Pigs Eye Waster Water Treatment Plant. They propose to construct a flood-proof 6' x 10' platform on which to elevate water quality sampling equipment to the regulatory flood protection elevation (RFPE) of 708.3 feet above mean sea level. The sampling equipment is contained in a 5' x 5' x 7' shelter, which, although not required by floodplain regulations, will be removed in times of flooding. The applicant has provided an executed agreement with the owner of the property, Westway Terminal Company LLC, which provides for leasing of space for the platform and monitoring equipment, and terms of site access for Metropolitan Council personnel. The proposed project requires a conditional use permit for elevation of a structure (the water quality sampling equipment shelter) on an alternative to fill (the flood-proof platform).
2. §72.74 lists standards for conditional uses in the FF flood fringe district.
  - (a) *Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls or above grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: 1) the enclosed area is above grade on at least one (1) side of the structure; 2) is designed to*

*internally flood and is constructed with flood-resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:*

- (1) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.*
- (2) Specific standards for above grade, enclosed areas. Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:*
  - a. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of intervention.*
  - b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the Minnesota State Building Code and shall be used solely for building access, parking of vehicles or storage.*

This standard can be met, subject to condition. The applicant is proposing to construct a platform to elevate a shelter for water quality sampling equipment. The platform will be constructed on pilings sunk in to the landward side of a privately-owned earthen levee, and will consist of a steel frame and galvanized grating, with no enclosed areas. The sampling shelter will be mounted with clips to allow removal. The applicant has provided specifications with an engineer's certification that the specifications are in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities will be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding. The applicant has also agreed that, as a condition of approval, a similar certification regarding as-built condition shall be supplied.

*(b) Basements, as defined in §72.14, shall be subject to the following:*

- (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation except as authorized in subsection (e) of this section.*
- (2) Nonresidential basements may be allowed below the regulatory flood-protection elevation, provided the basement is protected in accordance with subsection (c) or (e) of this section.*

This standard is met; the sampling shelter includes no basement.

*(c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the Minnesota State Building Code. This shall require making the structure watertight, with the walls substantially impermeable*

*to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.*

This standard is met. The sampling shelter will not include areas below the RFPE.

- (d) *The storage or processing of materials that are, in times of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the planning commission, or if elevated above the regulatory flood protection elevation by alternative methods which meet the requirements of subsection (a) above. Storage of bulk materials may be allowed provided an erosion/sedimentation control plan is submitted which clearly specifies methods to be used to stabilize the materials on site for a regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the planning commission.*

This condition is met. There will be no storage of any materials of any kind.

- (e) *When the Federal Emergency Management Agency has issued a letter of map revision-fill (LOMR-F) for vacant parcels of land elevated by fill to the one (1) percent chance flood elevation, the area elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the area elevated by fill with the lowest floor below the regulatory flood protection elevation provided the structure meets the following provisions:*
- (1) *No floor level or portion of a structure that is below the regulatory flood protection elevation shall be used as habitable space or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by floodwaters. Habitable space shall be defined as any space in a structure used for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space, and similar areas are not considered habitable space.*
  - (2) *For residential and nonresidential structures, the basement floor may be placed below the regulatory flood protection elevation subject to the following standards:*
    - a. *The top of the immediate floor above any basement area shall be placed at or above the regulatory flood protection elevation..*
    - b. *Any area of the structure placed below the regulatory flood protection elevation shall meet the "reasonably safe from flooding" standards in the Federal Emergency Management Agency (FEMA) publication entitled "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding," Technical Bulletin 10-01, a copy of which is hereby adopted by reference and made part of this chapter. In accordance with the provisions of this chapter, and specifically section 72.33(g), the applicant shall submit documentation that the structure is designed and built in accordance with either the "Simplified Approach" or "Engineered Basement Option" found in FEMA Technical Bulletin 10-01.*
    - c. *If the ground surrounding the lowest adjacent grade to the structure is not at or above the regulatory flood protection elevation, then any portion of the structure that is below the regulatory flood protection elevation must be floodproofed consistent with any of the FP-1 through FP-4 floodproofing classifications found in the Minnesota State Building Code.*

This condition is met. No letter of map revision-fill (LOMR-F) has been issued for the project location.

2. §72.32 lists thirteen (13) factors to be considered in evaluating applications for conditional use permits in the FF flood fringe district:

- (1) *The relationship of the proposed use to the comprehensive plan and floodplain*

*management program for the city.* The proposed use is in compliance with the Saint Paul Comprehensive Plan. Strategy 2 of the Water Resources Management chapter of the Comprehensive Plan is to *Reduce Pollutant Loads to Water Bodies* and Strategy 3 is to *Operate and Maintain a Cost Effective Sanitary Sewer Infrastructure*. While specific policies in the chapter do not identify a role for the City in water quality monitoring, monitoring is a logical component of water quality improvement efforts, and will allow the Metropolitan Council to more effectively assess the impacts of the Pigs Eye Wastewater Treatment Plant on the Mississippi River. By satisfying the purposes of this chapter as elsewhere described, the proposed use is consistent with the floodplain management program of the city.

- (2) *The importance of the services provided by the proposed facility to the community.* The proposed water quality monitoring station will provide data for use in water quality improvement efforts.
- (3) *The ability of the existing topography, soils, and geology to support and accommodate the proposed use.* The applicant has provided a geotechnical support which include specifications for a piling system sufficient to secure and support the flood-proof platform and monitoring equipment.
- (4) *The compatibility of the proposed use with existing characteristics of biologic and other natural communities.* The area of the proposed use is industrial in character, and does not contain significant biological communities; impacts of the proposed use will not extend beyond the immediate area.
- (5) *The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions.* The existing terminal where the sampling equipment will be located is already served by adequate water supply and sanitation systems. The proposed project will not create additional demand for water supply or sanitation capability.
- (6) *The requirements of the facility for a river-dependent location, if applicable.* The proposed sampling equipment needs direct access to river water for sampling purposes.
- (7) *The safety of access to the property for ordinary vehicles.* Safe access to the site is available for all vehicles via Childs Road.
- (8) *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.* The proposed platform is of open construction and composed of flood-resistant materials, rendering it highly resistant to flood damage. Monitoring equipment will be removed in times of flooding.
- (9) *The dangers to life and property due to increased flood heights or velocities caused by encroachments.* The encroachments are of limited footprint and located in the flood fringe, where impacts on flood flows are negligible.
- (10) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.* The proposed platform will be located in the flood fringe, where the velocity of flood flow is in general reduced. It is will be constructed of flood-resistant materials and requires no modifications or actions to become flood-proof; as a result, flood height, rate of rise, and duration are not significant factors. The monitoring equipment is subject to flood damage, but will be located above the RFPE and thus not subject to further regulation.
- (11) *The danger that materials may be swept onto other lands or downstream to the injury of others.* The proposed platform will be located on the landward-side of an existing earthen levee, out of the primary flow of flood waters. It will be constructed to provide minimum resistance to flood waters and of non-bouyant materials, thus reducing the risk of becoming



borne by flood waters.

- (12) *The availability of alternative locations or configurations for the proposed use.* The proposed platform is being built to accommodate water quality sampling equipment and must be located as near as possible to the Mississippi River and immediately upstream of the Pigs Eye Wastewater Treatment Plant. There are not suitable alternative locations.
- (13) *Such other factors as are relevant to the purposes of this chapter.* The factors and findings enumerated and described herein adequately evaluate the proposed use for the purposes of this chapter.

3. §61.501 lists five standards that all conditional uses must satisfy:

- 1. *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The proposed use is in compliance with the Saint Paul Comprehensive Plan. Strategy 2 of the Water Resources Management chapter of the Comprehensive Plan is to *Reduce Pollutant Loads to Water Bodies* and Strategy 3 is to *Operate and Maintain a Cost Effective Sanitary Sewer Infrastructure*. While specific policies in the chapter do not identify a role for the City in water quality monitoring, monitoring is a logical component of water quality improvement efforts, and will allow the Metropolitan Council to more effectively assess the impacts of the Pigs Eye Wastewater Treatment Plant on the Mississippi River
- 2. *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The existing facility is adequately served by Childs Road, and the proposed addition will not increase the operational capacity of the facility.
- 3. *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The existing character of the immediate neighborhood is industrial in nature; the proposed use is minor in scale in comparison to the terminal property where it will be located, and will have no significant impact on the surrounding area, nor will it endanger the public health, safety, or general welfare.
- 4. *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use is consistent with the industrial nature of the surrounding properties, and will not impeded improvement of surrounding properties for allowed uses.
- 5. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The use conforms to all applicable regulations of the I2 general industrial district and the FF flood fringe district.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the conditional use permit for for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill, subject to the additional condition that the applicant provide a certification signed by a registered professional engineer or architect that the as-built condition of the elevating platform is in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.

**CONDITIONAL USE PERMIT APPLICATION**

Department of Planning and Economic Development

Zoning Section

1400 City Hall Annex

25 West Fourth Street

Saint Paul, MN 55102-1634

(651) 266-6589

Zoning office use only

File # 12-202 256Fee: 980.00

Tentative Hearing Date:

11-8-12

PD = 1

\* 092822140062

**APPLICANT**

Name Metropolitan Council- Environmental Services  
 Address 390 Robert Street North  
 City St. Paul St. MN Zip 55101 Daytime Phone 651-602-1091  
 Name of Owner (if different) \_\_\_\_\_  
 Contact Person (if different) Jeff Schwarz Phone 651-602-1176

**PROPERTY LOCATION**

Address / Location Westway Terminal Company  
 Legal Description 225 Childs Road, St. Paul, MN 55106  
 Current Zoning E-2/RCD  
 (attach additional sheet if necessary)

TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of  
 Chapter 72, Section 73, Paragraph \_\_\_\_\_ of the Zoning Code.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions. If you are requesting modification of any special conditions or standards for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Section 61.502 of the Zoning Code. Attach additional sheets if necessary.

See attached sheets.

RECEIVED

OCT 18 2012

Per \_\_\_\_\_

☒ Required site plan is attached

Applicant's Signature Bryce J. Pickart Date 10/16/12 City Agent John  
Assistant General Manager 10-18-12

2225 Childs Rd

**Supporting Information For  
Metropolitan Council – Environmental Services (MCES)  
Water Sampling Shelter Platform**

MCES needs to construct a 6' x 10' industrial platform to support a 5' x 5' x 7' water sampling shelter. Water samples are required to be collected upstream of the Metropolitan Waste Water Treatment Plant by NPDES permit. Details of the water quality monitoring program are included in the attached MCES/Westway Access Agreement Letter dated May 18, 2012. The platform will be located on the east side of the earthen flood dike on Westway Terminal Company property. The platform elevation will be 708.3 feet above sea level. The integrity of the Westway flood dike will be maintained during construction and use of the platform and sampling shelter. A conditional use permit is required because the platform will be constructed within the "Flood Fringe District" and because the platform will be supported on piles and footings rather than fill.

The following documentation is attached:

1. Aerial view of site
2. Plan sheets signed by a professional engineer
3. Sampling shed photo
4. Site photo and isometric sketch of platform
5. Site survey
6. Geo Engineering Consultants Geotechnical Exploration Program Report
7. MCES/Westway Access Agreement Letter

May 18, 2012

Mr. Dino Deluca  
Midwest Regional Manager  
Westway Terminal Company, LLC  
13550 South Indiana Avenue  
Riverdale, IL 60827

Mr. Mark Schlifer  
Terminal Manager  
Westway Terminal Company, LLC  
2225 Childs Road  
St. Paul, MN 55106

RE: Request and Approval for Property Access and to Conduct Mississippi River Water  
Quality Monitoring

Dear Messrs. Deluca and Schlifer,

This letter is a formal request for access by Metropolitan Council Environmental Services (MCES) to conduct Mississippi River water quality monitoring on Westway Terminal Company property at 2225 Childs Road in St. Paul, MN. We request that you indicate your approval by signing and returning a copy of this letter to Ms. Micky Gutzmann of the Metropolitan Council, at the address given below.

Scope of Water Quality Monitoring Work to be Conducted by MCES

1) Automonitoring:

In 2012, MCES will construct an automatic monitoring (automonitoring) station on the Mississippi River at river mile UM 836.8. The station will be located at Westway Terminal Number 2. The automonitoring station will consist of a small (5' x 5' x 6') fiberglass shelter situated on an elevated, metal platform. A pump suspended from the Westway Terminal Number 2 Pier will continuously pump Mississippi River water to the automonitoring shelter, where instrumentation will continuously measure dissolved oxygen, temperature, pH, and specific conductance of the water. The automonitoring station will operate year-round. On a routine basis (3-5 days per week), MCES staff will service the automonitoring station, calibrating the instrumentation and maintaining the shelter and all related equipment. The water quality data obtained at this automonitoring station will be reported to the Minnesota Pollution Control Agency (MPCA) on a monthly basis, as required by the National Pollutant Discharge Elimination System (NPDES) Permit for the Metropolitan

Wastewater Treatment Plant (Metro WWTP), located just downriver from Westway Terminal Number 2. During Mississippi River flood conditions when high water threatens the automonitoring station, MCES staff will remove the shelter from the platform, disconnect electrical power, pumps, and hoses, and transport the shelter and monitoring equipment to the Metro WWTP, for temporary safe storage.

2) Conventional Monitoring:

During time periods when the automonitoring station is malfunctioning and/or supplementary water quality data are needed, MCES staff will access the Westway Terminal Number 2 Pier to obtain Mississippi River water samples and/or make measurements of water quality conditions. Occasional access to the pier is necessary to ensure that critical data can be obtained and provided to the MPCA, to meet Metro WWTP NPDES Permit requirements.

3) Suspended Sediment Monitoring:

On a quarterly basis (typically January, April, July, and October), MCES staff will access the Westway Terminal Number 2 Pier to obtain Mississippi River suspended sediment samples from a sampling device that is continuously deployed and suspended from the pier. Suspended sediment monitoring is a Metro WWTP NPDES Permit requirement.

MCES staff accessing Westway Terminal property to conduct water quality monitoring work, as indicated above, will have Transportation Security Administration (TSA) Transportation Worker Identification Credential (TWIC) cards and will display these cards, as requested, upon entry to the facility.

While on Westway Terminal property, MCES staff will take all of the precautions necessary and wear all of the personal protective equipment (PPE) necessary to comply with Westway safety requirements. This personal protective equipment will include a hard hat, safety glasses, safety shoes, and a life jacket (when working on the pier).

All special precautions and/or instructions for MCES staff accessing Westway Terminal Company property are provided at the end of this agreement.

Rent

MCES agrees to pay Westway Terminal Company annual rent in the amount of Two Thousand Four Hundred Dollars (\$2,400.00). This annual payment includes reimbursement for Westway electrical power used by the MCES automonitoring station. The first payment shall be due 30 days after the commencement date of this agreement. Thereafter, the payments shall be made annually on or before January 15<sup>th</sup> of each year. Westway Terminal Company will invoice MCES 30 days prior to the next scheduled payment to allow for MCES processing and compliance with 30 days net payable.

Access Agreement

By signing below you are allowing MCES staff to enter your property to conduct water quality monitoring work, as described above.

Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of the other party and the results thereof. The Metropolitan Council's liability is governed by the provisions of Minnesota Statutes Chapter 466 and the Metropolitan Council's obligation under this paragraph shall not be construed to negate or abridge or otherwise waive, with respect to the Metropolitan Council, the liability limits of Minnesota Statutes Chapter 466.

If you have any questions about this agreement, please feel free to contact:

Micky Gutzmann  
Manager  
Contracts and Procurement  
Metropolitan Council  
390 Robert Street North  
St. Paul, MN 55101  
(651)-602-1741  
[micky.gutzmann@metc.state.mn.us](mailto:micky.gutzmann@metc.state.mn.us)

If you have any questions about MCES water quality monitoring programs, please feel free to contact:

Kent Johnson  
Manager  
Environmental Monitoring and Assessment Section  
Metropolitan Council Environmental Services  
2400 Childs Road  
St. Paul, MN 55106  
(651)-602-8117  
[kent.johnson@metc.state.mn.us](mailto:kent.johnson@metc.state.mn.us)

MCES greatly appreciates your support of our water quality monitoring work by allowing access to Westway Terminal Company property.

Signatures:

William Moore  
William Moore  
General Manager  
MCES

6/15/12  
Date

Gene McClain  
Gene McClain  
President  
Westway Terminal Company LLC

5/18/12  
Date

**Special Precautions and/or Instructions for  
MCES Staff Accessing Westway Terminal Property**

1. Check and sign in at the Westway office or gate
2. Wear all proper personal protective equipment (PPE), including hard hat, safety glasses, safety shoes, and a life jacket (on the pier)
3. Travel to the monitoring location by foot only
4. MUST be escorted by a Westway employee if monitoring work is conducted on the Westway pier
5. Must report any incidents, injuries, or accidents immediately to a Westway employee



**Geo Engineering Consultants Inc**

PO Box 21490 Minneapolis MN 55421

Phone 763.502.9945 Fax 763.502.9946

July 29, 2012

Mr. Blaine Engele  
Minnesota Industrial Construction  
2995 Helena Avenue North  
Oakdale, MN 55128

RE: Geotechnical Exploration Program  
Proposed Platform  
2225 Childs Road  
St. Paul, Minnesota  
Project Number: 012-0021-5106

Dear Mr. Engele:

This report presents the results of the geotechnical exploration program performed for the Proposed Platform at 2225 Childs Road in St. Paul, Minnesota. In accordance with your authorization on July 18, 2012, we have conducted a geotechnical exploration program for the planned construction.

Our work scope under this authorization was limited to performing one dynamic penetration test boring, and providing an engineering report that includes log of the boring and our engineering recommendations for foundation support.

The purpose of this report is to present the results of our field exploration and the associated engineering review.

The field work was performed on July 20, 2012. The boring was put down within the general area of the proposed platform.

Soil classification was performed in general accordance with American Standards for Testing and Materials (ASTM) D2488.

The subsurface conditions suggest a soil profile consisting of existing fill underlain by coarse alluvium. In general, 15 feet of fill were found at the surface. The fill is underlain by very loose to loose silty sands and sands and which in turn, underlain by dense silty sands. The soil boring was obstructed by boulder or bedrock at 43 feet.

Water level measurements were made in the boreholes during and at the completion of the borings. Based on this data, water was noticed at the time of our field work. Water level was

18.7 feet below the present grade at the time of our field work. In general, water may fluctuate throughout the year depending on several factors.

We understand a platform will be constructed. The plan dimensions of the platform will be 6 feet by 10 feet. The structure will be supported on post foundations.

The existing fill and very loose silty sands should not be relied upon for foundation support because of limited strength and compressibility potential. To remove and replace these soils will require at least 15 feet of excavation at the boring location. In addition, soil below the fill has limited strength and up to a depth of 32 feet. Conventional excavation and refill procedure may not be desirable due to depth of excavation and proximity to nearby structures.

In our opinion a deep foundation system of helical compression anchors may be suitable for supporting the proposed platform. Other deep foundations may be used, such as driven piles. However, because of relatively smaller size project, near the existing structures and potential vibrations from driven pile installation, in our opinion, a deep foundation system of helical compression anchors may be more applicable and is recommended at this site.

Helical compression anchors have the advantage of minimal site surface disturbance. In addition, there is little or no potential negative (downdrag) load on the anchors from the compressible soils.

We recommend the foundation system consist of helical compression anchors. A 3-1/2 inch diameter round shaft, pulldown pile, or push pile may be used. The helical system should consist of three helixes of 10, 12 and 14 inches in diameter. The capacity for this anchor configuration should be 25 kips per anchor. Other configurations will yield different capacity. The capacity includes a safety factor of 2.0 against soil bearing failure. The maximum final torque of each anchor should be documented to verify the capacity. In addition, a quick load test may be performed on one or more anchors to determine the actual anchor capacity attained.

To achieve the capacity, we anticipate the helixes to bear within the dense silty sands below 40 at the explored location or directly on the competent bedrock surface. We estimate the anchor lengths to be on the order of at least 40 feet below the existing grade. Helical pier system with pile cap may be designed for frost protection. An experienced contractor should be consulted for specific details and installation.

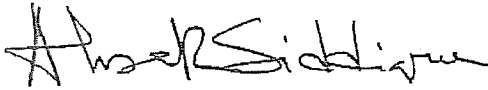
All excavations should comply with the requirements of O.S.H.A. 29 CFR, Part 1926, Subpart P, "Excavations and Trenches". This document states that excavation safety is the responsibility of the contractor. Reference to these O.S.H.A. requirements should be included in the project specifications.

Professional judgments and recommendations are presented in this report. They are based partly on evaluation of the technical information gathered, partly on historical reports and

partly on our general experience with subsurface conditions in the area. We do not guarantee the performance of the project in any respect other than that our engineering work and the judgment rendered meet the standards and care of our profession. It should be noted that the borings represent the conditions at the time and location of the borings only. No representation is made of conditions at other times and locations. The recommendations presented in this report are applicable only to this specific project. These data should not be used for other purposes.

If there are any questions regarding the data or recommendations, please call us at (763) 502-9945.

Geo Engineering Consultants, Inc.

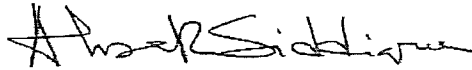


Ahsanur R. Siddique, P.E.  
Geotechnical Engineer



Steven J. Olson, P.E.  
Geotechnical Engineer

I hereby certify that this plan, specification, or report was prepared  
by me or under my direct supervision that I am a duly Registered  
Professional Engineer under the laws of the State of Minnesota.



Date 7/29/2012 Registration No. 22689

Project No. 012-0021-5106

## TEST BORING LOG NO. B-1

Sheet 1 of 1

CLIENT

Minnesota Industrial Construction

ARCHITECT/ENGINEER

SITE

2225 Childs Road  
St. Paul, Minnesota

PROJECT

Proposed Platform

Ramsey County

Westway Terminal Co

1' north and 3' west of SE corner of  
proposed platform

Surface Elev.:

GRAPHIC LOG

DEPTH (FT.)

BLOWS/FT

NUMBER

TYPE

IN. DRIVEN  
IN. RECOVERED

MOISTURE, %

DRY DENSITY  
PCF

Qu tsf

ADDITIONAL  
DATA/  
REMARKSFILL - Mixture of silty sand with a little gravel,  
traces of organics, fine to medium grained,  
moist, brown to dark brown to black

15.0

SILTY SAND (SM) with a little gravel, traces of  
organics, fine grained, moist to waterbearing,  
dark brown, very loose, may be fill

▽

32.0

SAND (SP) with a little gravel, fine grained,  
waterbearing, very loose to loose

40.0

SILTY SAND (SM) with a little gravel, fine  
grained, waterbearing, dense, obstruction at  
43.0 possible boulder or bedrock

43.0

Obstruction

## WATER LEVEL OBSERVATIONS

STARTED 7/20/12 FINISHED 7/20/12

DATE

TIME

HOLE  
DEPTHCASING  
DEPTH

CAVE-IN

WATER  
LEVEL

NOTE

METHOD: Dynamic penetration testing from 0 to  
43 feet. Dual turn sampling from 0 to 16 feet.

7/20/12

10:09

43.0

None

18.8

18.7 ▽

7/20/12

10:49

16.0

None

16.0

None

EAST

NORTH

DRILL CO. Geo Eng

DRILL RIG 54 DT

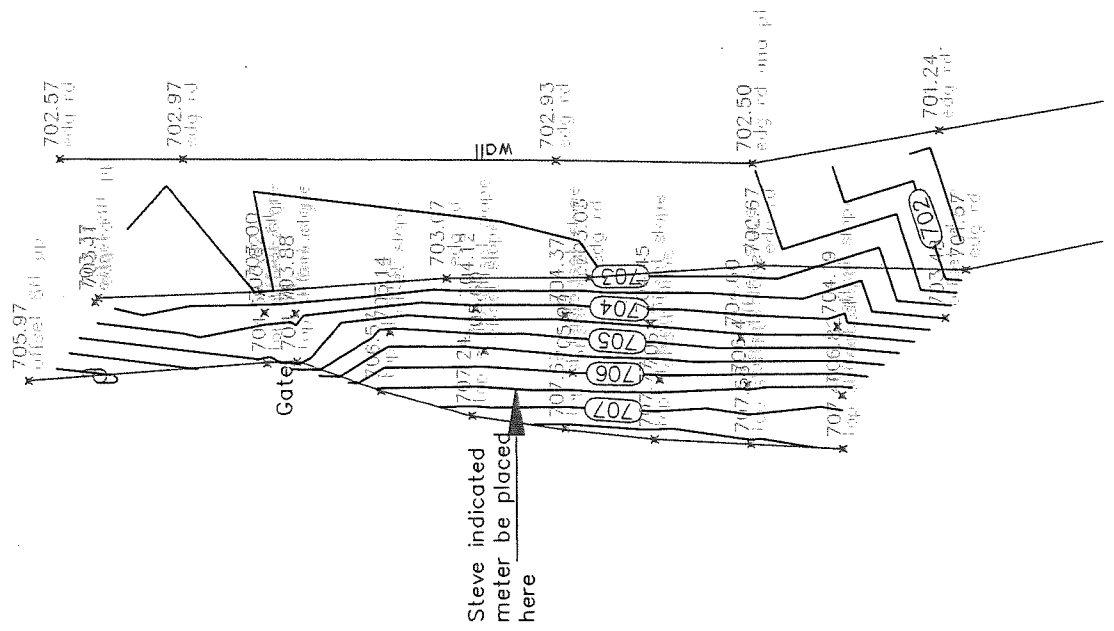
DRILLER

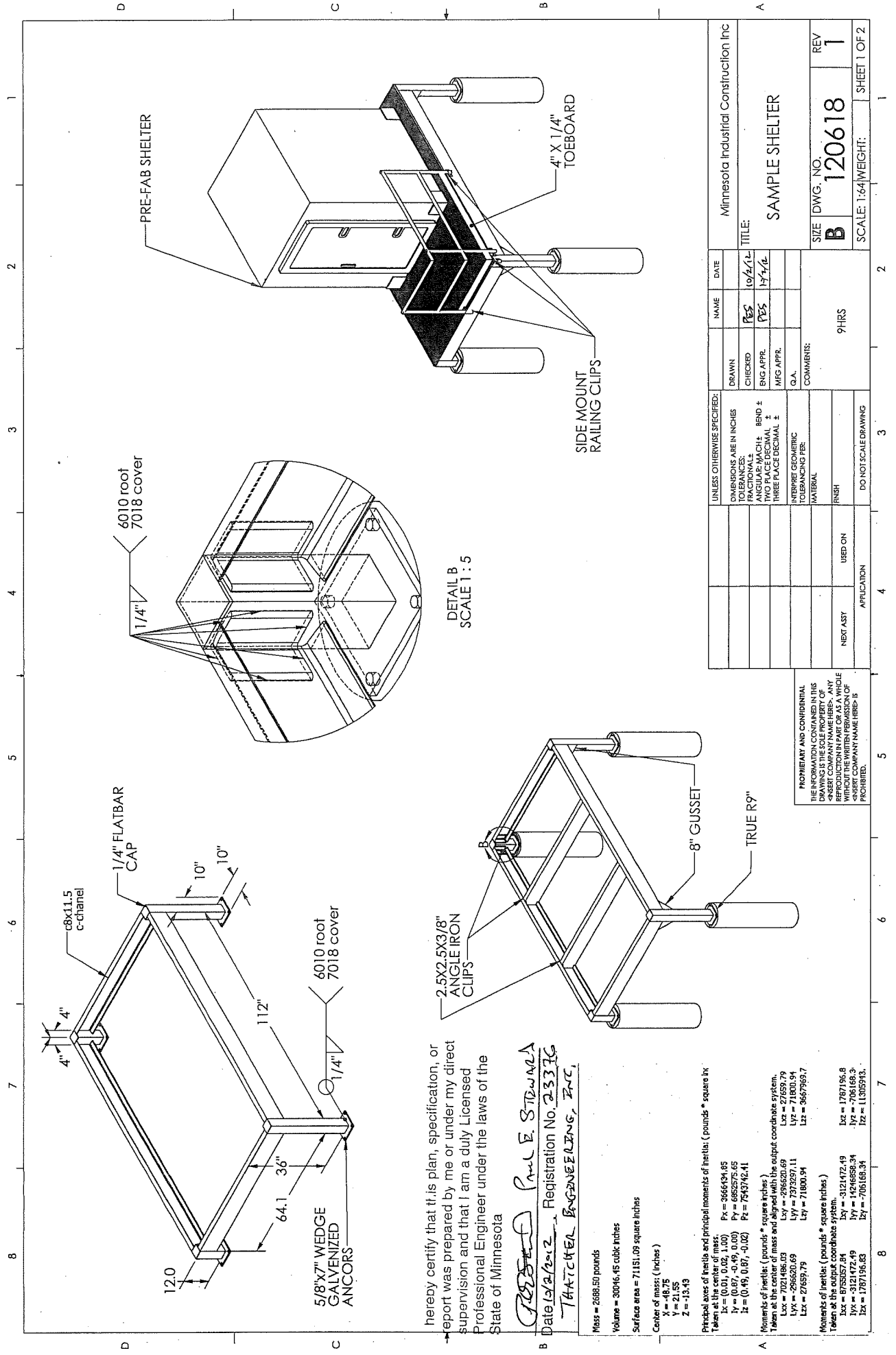
SO

ASST DRILLER AS

Geo Engineering Consultants Inc

## Westway—Monitoring Site 0.5' Contours





I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

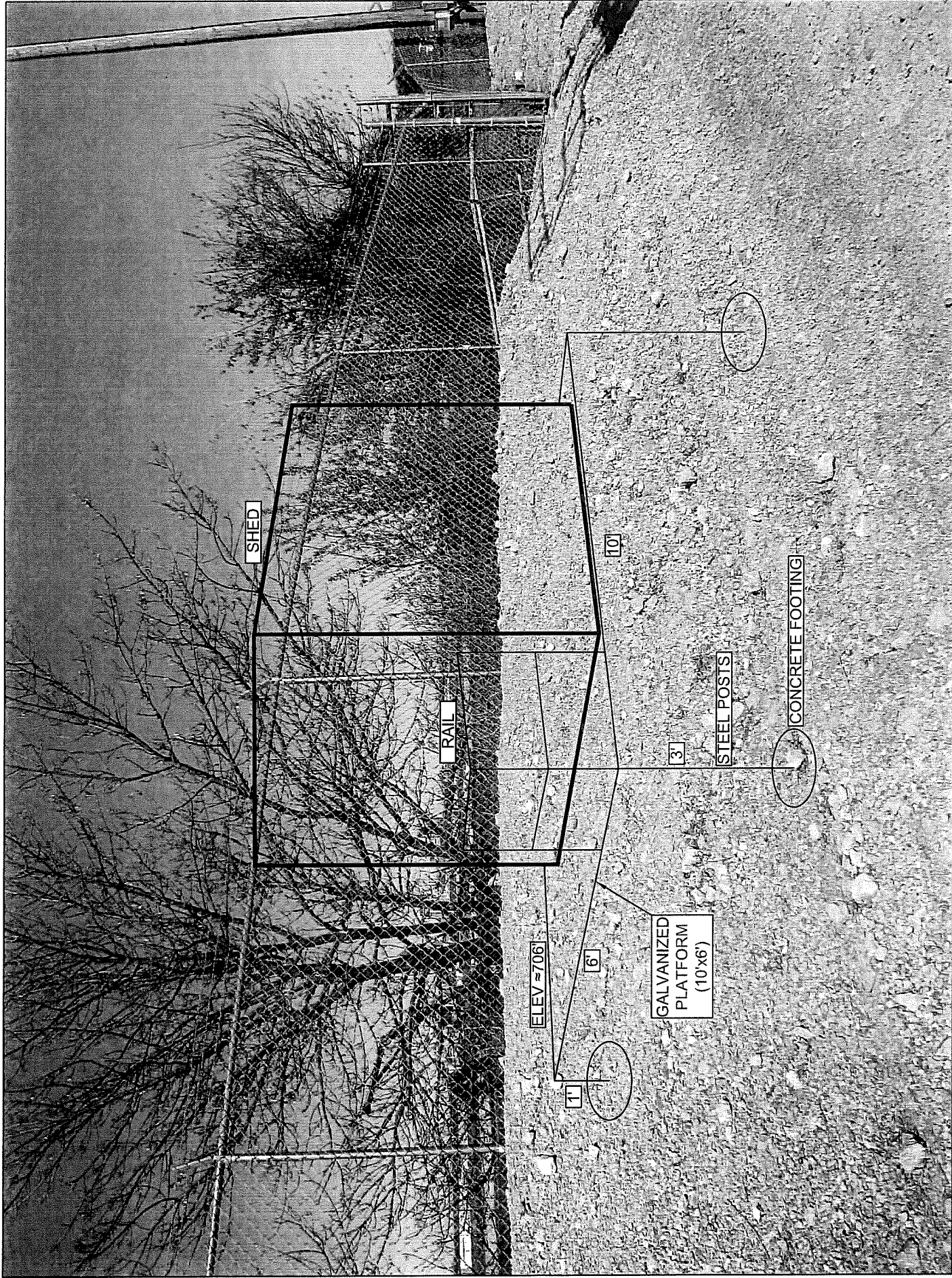
*Paul E. Steward*  
 Date 12/2/2012 Registration No. 23376  
 HATCHER ENGINEERING, INC.

Mass = 2688.50 pounds	Principal axes of inertia and principal moments of inertia (pounds * square inch)	12x = 1787196.8
Volume = 30946.46 cubic inches	12y = 1424686.34	12z = 706168.34
Surface area = 71151.09 square inches	12x = 1787196.8	12y = 1424686.34
Center of mass: (inches)	12z = 706168.34	12x = 1787196.8
X = 48.75	12y = 1424686.34	12z = 706168.34
Y = 21.55	12x = 1787196.8	12y = 1424686.34
Z = 13.43	12z = 706168.34	12x = 1787196.8

UNLESS OTHERWISE SPECIFIED:	NAME	DATE	MINNESOTA INDUSTRIAL CONSTRUCTION INC
TOLERANCES ARE IN INCHES	DRAWN	10/2/12	
FRACTIONS: 1/8" MINIMUM	CHECKED	10/2/12	
DECIMALS: TWO PLACE DECIMAL	ENG APPR.	10/2/12	
THREE PLACE DECIMAL	MFG APPR.		
NEVER GEOMETRIC TOLERANCES	Q.A.		
NEVER TOLERANCES	COMMENTS:		
NEVER FINISH			
NEVER USED ON			
NEVER APPLICATION			
NEVER DO NOT SCALE DRAWING			

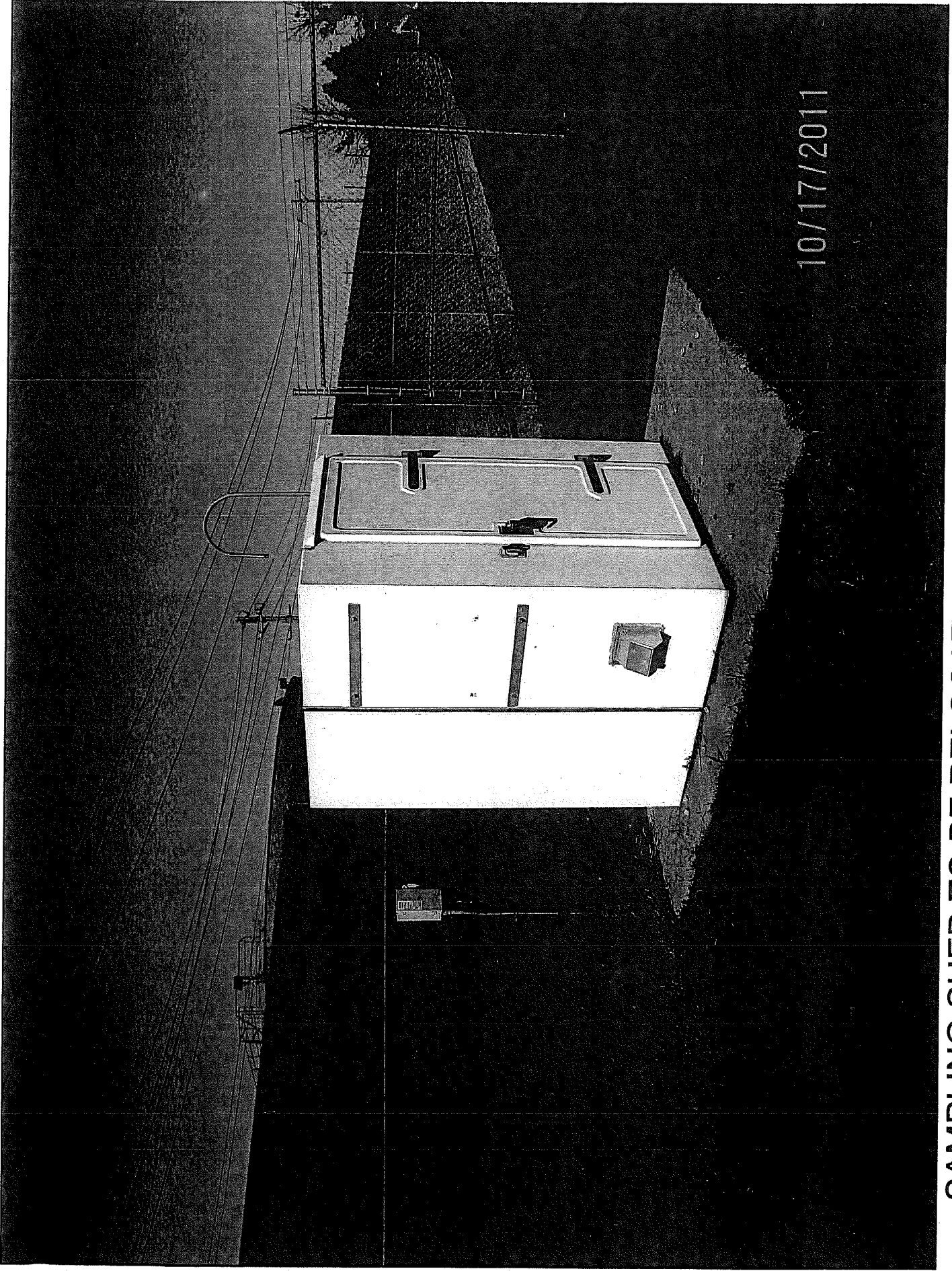
SIZE	DWG. NO.	REV
B	120618	1
SCALE	1:64	WEIGHT:
		SHEET 1 OF 2





PROPOSED SAMPLING SHED STEEL PLATFORM AT WESTWAY TERMINAL #2





SAMPLING SHED TO BE RELOCATED TO WESTWAY TERMINAL #2



PROPOSED SAMPLING SHED SITE AT WESTWAY TERMINAL #2, MAY 2012

DELOS

FARRINGTON

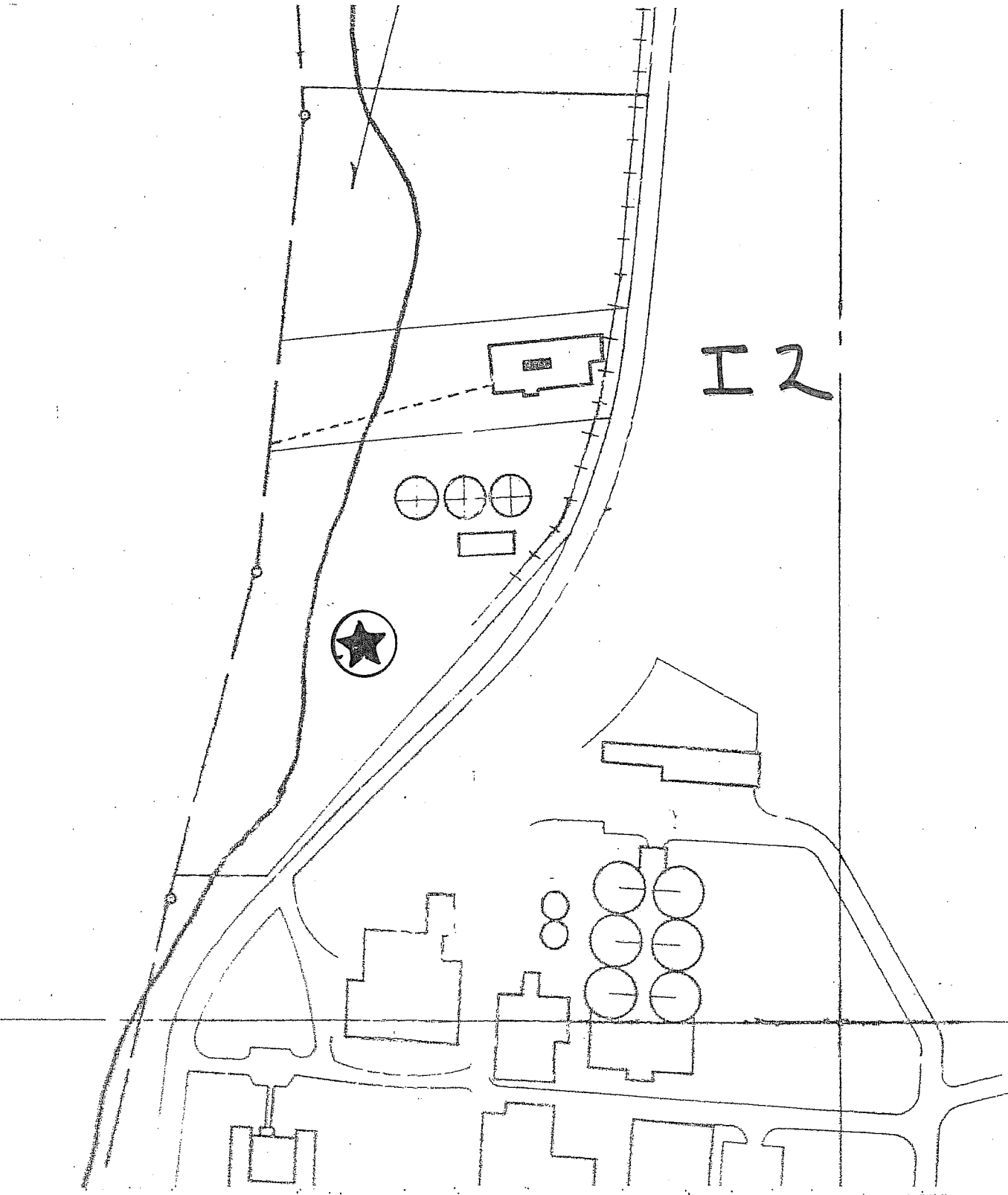
LAMPREY

JEANNE

CHILDS



(002)



I 2

APPLICANT Metropolitan Council  
 PURPOSE Conditional USE Permit  
 FILE # 12-202256 DATE 10-19-12  
 PLNG. DIST 1 Land Use Map # 31  
 SCALE 1" = 400' Zoning Map # 23

LEGEND

—— zoning district boundary

▨ subject property

○ one family  
 ⊙ two family  
 ⊙ ⊙ multiple family

▲ commercial  
 ▤ industrial  
 V vacant



## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Good Guys Auto Body
  2. **APPLICANT:** Andrew Dick, Hill Properties Inc.
  3. **TYPE OF APPLICATION:** Nonconforming Use Permit-Reestablishment
  4. **LOCATION:** 744 3rd St E, SW corner at Maple
  5. **PIN & LEGAL DESCRIPTION:** 322922140214; Lyman Dayton Addition Nwly 76 Ft Of Lots 25 And Lot 26 Blk 37
  6. **PLANNING DISTRICT:** 4
  7. **ZONING CODE REFERENCE:** §62.109(e)
  8. **STAFF REPORT DATE:** October 29, 2012
  9. **DATE RECEIVED:** October 9, 2012
- FILE #** 12-115-857  
**HEARING DATE:** November 8, 2012  
**PRESENT ZONING:** B2  
**BY:** Bill Dermody  
**60-DAY DEADLINE FOR ACTION:** December 8, 2012
- 

- A. **PURPOSE:** Reestablishment of nonconforming use as an auto body shop
- B. **PARCEL SIZE:** 5776 sq. ft. (76 ft. x 76 ft.)
- C. **EXISTING LAND USE:** A-Auto Body
- D. **SURROUNDING LAND USE:**
  - North: Multi-family residential (northwest corner, T2); office ground floor, residential above (northeast corner, B2)
  - East: Multi-family residential (southeast corner, T2); Single-family residential (RT1)
  - South: Single-family residential (RT1)
  - West: Single-family residential (RT1)
- E. **ZONING CODE CITATION:** §62.109(e) lists the conditions under which the Planning Commission may grant a permit to reestablish a nonconforming use.
- F. **HISTORY/DISCUSSION:** The building was constructed in 1931 when it received zoning approval for a fuel station. The site was rezoned from Commercial to B3 between 1975 and 1977. Since approximately 1978 it has been used as an auto body shop. In 1986, a Nonconforming Use Permit was approved to allow expansion of an accessory use (storage in rear of property) (ZF #9921). In 1990, all four corners of the Maple/3<sup>rd</sup> intersection were zoned B2; the intersection's southeast corner was rezoned T2 in 2004, and the northwest corner was rezoned T2 in April 2012. The subject building was recently repainted and repaired upon being purchased by the current owner this past summer. The building has not been used for auto body repair since May 2011.
- G. **DISTRICT COUNCIL RECOMMENDATION:** At the time of this staff report, the District 4 Council had not commented on the application.
- H. **FINDINGS:**
  1. The application is to reestablish the nonconforming use of an auto body shop that operated on the site from approximately 1978 to May 2011.
  2. Section 62.109(e) states: *When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:*
    - (1) *The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose.* This finding is met. The previous owner invested significant money to adapt the property for use as an auto body shop. Investments specialized to the auto body shop use include four overhead doors, a paint booth with exhaust system, a fire suppression system, a compressor room with two 300-gallon compressors, and an in-ground car hoist. The current owner accounted for being able to



use these investments when purchasing the property.

- (2) *The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use.* This finding is met. The proposed use is the same as the previous nonconforming use.
- (3) *The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. 3<sup>rd</sup> Street is an arterial street with a direct connection to Downtown that features neighborhood-scale commercial uses at several intersections in this area. No building or site expansion is requested that would change the property's character. While an auto body shop could be detrimental to the area's character depending on how it operates, the business plan presented by the applicant limits the negative impacts and scale of the business (i.e. all work conducted inside the building, no street parking, daytime only hours of operation, maximum three employees). The business plan presented portrays a neighborhood-scale business that will be compatible with the surrounding area.
- (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan designates 3<sup>rd</sup> Street as a Residential Corridor that is surrounded by an Established Neighborhood, as shown in the Generalized 2030 Future Land Use Map (Figure LU-B). The Comprehensive Plan states, "Established Neighborhoods are residential areas of predominately single-family housing and adjacent neighborhood-serving commercial uses. These are areas of stability where the existing character will be essentially maintained." The use is consistent with the District 4 Area Plan, adopted in 2009, which includes Strategy C3: "Promote the reuse, instead of demolition, of existing commercial buildings."
- (5) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on October 12, 2012: 28 parcels eligible; 19 parcels required; 20 parcels signed.

I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of nonconforming use as an auto body shop subject to the following conditions:

1. Zoning Administrator approval of the parking layout.
2. Maximum number of employees is 3.
3. Hours of operation shall be within the hours of 8:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday. The business shall be closed on Sundays.
4. Auto body work only; no mechanical/engine work is allowed.
5. All work shall be conducted inside the building.
6. No non-functioning vehicles, vehicles missing parts, or totaled vehicles may be parked outside the building overnight.



**NONCONFORMING USE PERMIT APPLICATION**  
Department of Planning and Economic Development  
Zoning Section  
1400 City Hall Annex  
25 West Fourth Street  
Saint Paul, MN 55102-1634  
(651) 266-6589

Zoning Office Use Only

File #: 12-115857

Fee: 700.00

Tentative Hearing Date: 11-8-12

PD = 4

# 322922 140214

**APPLICANT**

Name Andrew Dick  
Address 1099 Scarborough Lane  
City Woodbury St. MN Zip 55125 Daytime Phone 6512463683  
Name of Owner (if different) \_\_\_\_\_  
Contact Person (if different) \_\_\_\_\_ Phone \_\_\_\_\_

**PROPERTY LOCATION**

Address/Location 744 3rd St E, St. Paul, MN 55106  
Legal Description Lyman Dayton Addition to the city of St. Paul  
NWLY 76 Ft of Lots 25 and Lot 26 BLK 37 Current Zoning B2  
(attach additional sheet if necessary)

**TYPE OF PERMIT:** Application is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, Section 109 of the Zoning Code:

- The permit is for: ☐ Change from one nonconforming use to another (para. c)  
☒ Re-establishment of a nonconforming use vacant for more than one year (para. e)  
☐ Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)  
☐ Enlargement of a nonconforming use (para. d)

**SUPPORTING INFORMATION:** Supply the information that is applicable to your type of permit.

Present/Past Use Auto Body Shop (Since 1978) - Le Painter Auto Body

Proposed Use Auto Body Shop

Attach additional sheets if necessary

Attachments as required ☒ Site Plan

☒ Consent Petition

☒ Affidavit

Applicant's Signature [Signature]

Date 10/8/12 City Agent [Signature]

Hello, my name is Andy Dick. I have purchased the Le Painter Auto Body building, located at 744 3<sup>rd</sup> St E. It has been run as an auto body and collision center since 1978 by Craig Fohrenkamm. Five years ago, Craig suffered from a stroke, and the property has slowly headed downhill since then. I purchased the building a couple months ago, and immediately made numerous repairs and upgrades to the building and its landscaping (I am including before and after pictures). I have already had the building and its equipment inspected by fire inspector Dave Bergman, and he is ready to grant the certificate of occupancy as soon as zoning and licensing sign off on it.

The first big hurdle was that the building was designated as a Category II vacant building. This was appealed, and the appeal was granted, but only after I convinced Kathy Lantry that this was going to be a positive addition to the community. She had seen multiple other properties that I had successfully rehabbed on the East Side of St. Paul, but this property and this type of property made her nervous. She was very curious about the people who were going to run the day to day business, and she did research on them. I told her what I knew about them, and I told her that I had them on a month to month lease. The reason I have them on a month to month lease is because I want to make sure that they are responsible business owners who follow all the licensing conditions and get along with the neighbors. Good Guys Auto Body is planning on renting this space, and I have a great deal of confidence that they will be a very good addition to the local community.

Good Guys Auto Body plans on having two to three employees. They will not operate on Sundays, and they will not operate earlier than 8am, Mon-Fri, or before 9am on Saturday, nor will they operate after 7pm, Mon-Fri, or after 5pm on Saturday. They will not do mechanical work. They will solely do auto body work. They will not park any customer or employee cars on the street, nor will they park any totaled cars or cars missing parts outside the building. All work will be conducted inside the building. And they will follow any and all licensing conditions. And I will be in close communication with them and with the neighbors to make sure that they live up to my high expectations!

Please feel free to contact me with any other questions.

Sincerely,

Andrew Dick

Owner, Hill Properties Inc.  
651-246-3683  
[drewleo@gmail.com](mailto:drewleo@gmail.com)



Buildings  
(4 days)

office on 2nd floor

stairs

compact  
8'x16'

compact  
8'x16'

customer  
compact  
8'x16'

9'x18'

customer

9'x18'

customer compact

9'x18'

sidewalk

Sidewalk

cross

North

Maple St.

744 3rd St E

5'x5'

744 3<sup>rd</sup> St. E (Le Painter Body Shop)

---

Before



After



744 3<sup>rd</sup> St E (Le Painter Body Shop) Continued  
Before



After





Subject site as viewed from 3<sup>rd</sup> Street



Subject site as viewed from Maple Street

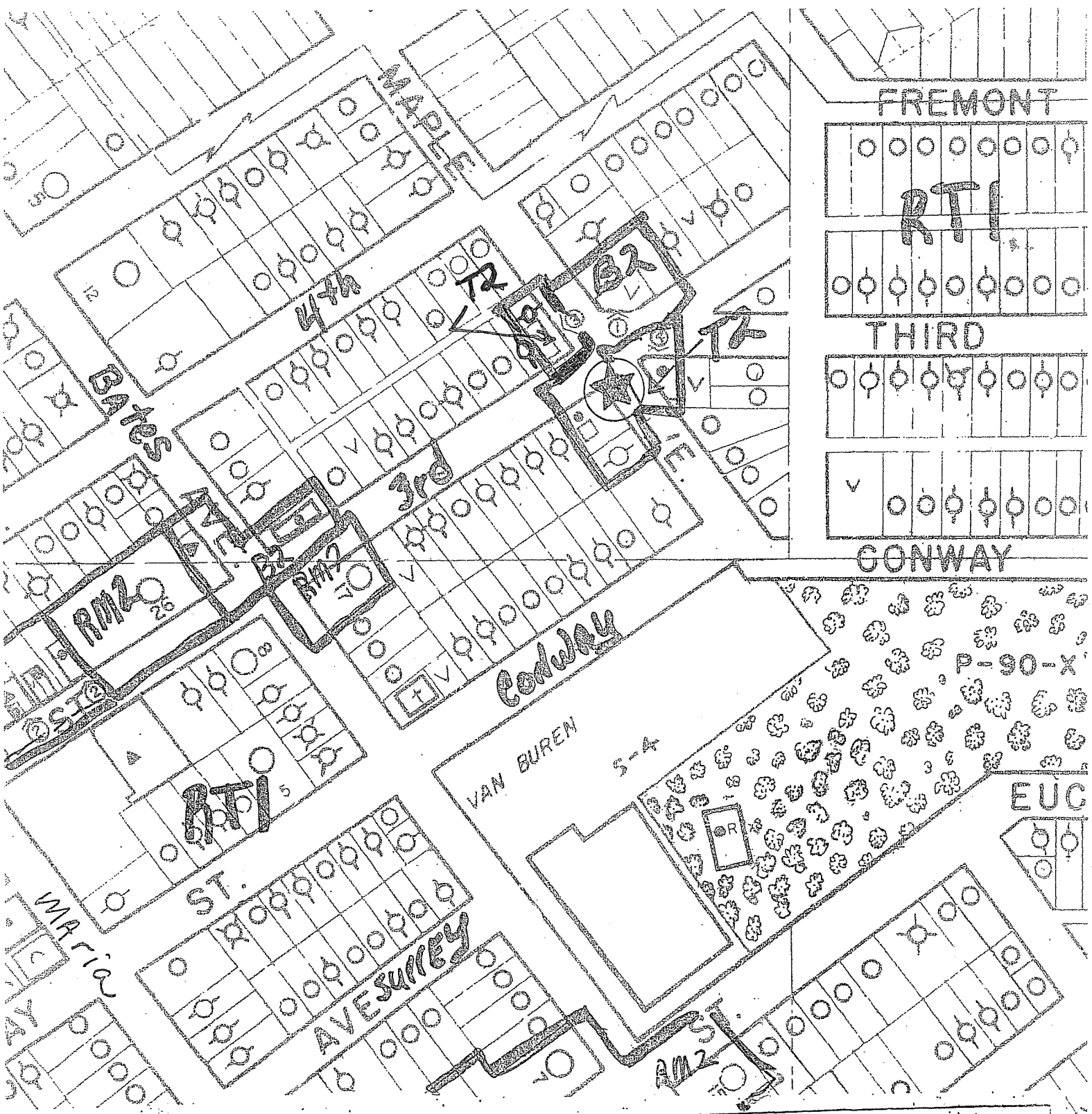




View toward Downtown; subject site on the left



Subject site from west neighbor's frontage



APPLICANT Andrew Dick  
 PURPOSE RE-EST NCU P  
 FILE # 12-115857 DATE 10-12-12  
 PLNG. DIST. 4 Land Use Map # 22  
 SCALE 1" = 400' Zoning Map # 11

**LEGEND**

zoning district boundary  
 subject property

○ one family  
 ○ two family  
 ○ multiple family

• ▲ ○ commercial  
 ♦ — ▲ industrial  
 V vacant

north



CITY OF SAINT PAUL  
*Christopher B. Coleman, Mayor*

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6655  
Facsimile: 651-228-3314

October 31, 2012

To: Members of the Zoning Committee

From: Josh Williams, Planner

Re: Discussion Item: 19 Milton (zoning file #12-091512)

---

Commissioners,

On August 20, 2012, the Zoning Committee held a hearing on zoning file #12-091512, an application by Stephen Nelson to establish legal nonconforming use status as a duplex at 19 Milton Street South, located between Summit and Grand Avenues. After the public hearing, the Zoning Committee voted 6-0 to recommend approval of the application, with conditions. The Planning Commission voted unanimously in favor of the Zoning Committee recommendation.

Among the findings of the resolution forwarded to the Planning Commission by the Zoning Committee was that Mr. Nelson had undertaken all work necessary to convert the structure from a single family home to a duplex—as well as significant subsequent remodeling—without obtaining necessary approvals or permits from the City (see Attachment A, Planning Commission Resolution, Finding 3(E), page 3).

In evaluating the application, the Zoning Committee applied the “Duplex Conversion Guidelines for Zoning Cases” approved by the Planning Commission on August 21, 2009 (see attachment B). The guidelines for nonconforming use applications require that guidelines for variance applications also be met. The relevant variance guidelines for purposes of this discussion are D and E, as follows:

*Guideline D states: All remodeling work for the duplex [must be] on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)*

*Guideline E states: For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire*

*structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.*

Based on the findings and the Duplex Conversion Guidelines, the resolution sent by the Zoning Committee to the Planning Commission for consideration recommended approval of the establishment on legal nonconforming use permit with the following conditions (see Attachment A):

1. The applicant shall immediately request a fire safety inspection of the subject property, with a provisional fire certificate of occupancy issued within one month, and a fire certificate of occupancy issued within a time period to be specified by fire safety inspections staff.
2. The applicant shall immediately request a code compliance inspection and shall obtain any necessary permits and make any necessary improvements so as to bring the structure at 19 Milton St. S into building and fire code compliance within one year.
3. The applicant shall reappear before the Zoning Committee for approval of any necessary external modifications required in order to bring the structure at 19 Milton St. S into building and fire code compliance before said improvements are made.

The external modifications required as a result of the code compliance inspection are as follows (see Attachment C):

- **“Rebuilding” of the exterior stairs to access the 2<sup>nd</sup> floor unit in order to achieve uniform riser height and openings of less than 4 inches.** The riser to the bottommost stair of the external stairway is approximately half as tall the others. The applicant proposes to rebuild the bottom riser to its original height and reinforce the brackets attaching the stairs to the landing/deck and cover uncovered riser openings. (see photo, Attachment D)
- **Installation of grippable handrails on exterior stairs to 2<sup>nd</sup> floor unit.** The applicant proposes to add a grippable hand rail to the existing banister.
- **Installation of window or vent to exterior, bathroom of 2<sup>nd</sup> floor unit.** The applicant proposes to vent the bathroom through the roof.

The applicant has obtained building, mechanical, electrical, etc. permits for all work, per the Department of Safety and Inspections. The property is located in the Hill historic district, and Heritage Preservation Commission staff have approved all exterior work as “minor work”, subject to conditions (see Attachment E).

Staff recommendation is that the Zoning Committee find that the repairs proposed by the applicant and required to bring the property at 19 Milton in full compliance with all building and safety codes will not materially impact the appearance of the building, and that no further action by the Planning Commission is required.



city of saint paul  
 planning commission resolution  
 file number 12-59  
 date September 7, 2012

WHEREAS, Stephen Nelson, File # 12-091-512, has applied for establishment of legal nonconforming use status as a duplex under the provisions of §62.109 of the Saint Paul Legislative Code, on property located at 19 Milton St S, Parcel Identification Number (PIN) 022823310063, legally described as Summit Park Addition Tost Pa Ex W 5 Ft The S 95 Ft Of Lot 1 Blk 27; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 30, 2012, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant is seeking to establish an existing duplex as a legal nonconforming use. Duplexes are first allowed in the RT2 two-family residential district; the subject property is located in the R2 one-family residential district. The applicant has supplied documentation demonstrating that the structure was converted from a single family home to a duplex in 1994 and has been in use as a duplex since that time. The subject lot does not meet lot minimum size dimensional standards for the R2 zoning district.
2. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming use status to use of structures if the commission makes eight findings. The findings and the applicant's ability to meet them are as follows:
  - (1) *The use occurs entirely within an existing structure.* This finding is met. The use is by definition within the existing structure.
  - (2) *The use or use of similar intensity permitted in the same clause of the zoning code or in a more restrictive zoning district has been existence continuously for a period of at least ten years prior to the date of the application.* This finding is met. The applicant has submitted a list of tenants occupying the lower unit (Unit 1) from January 1, 2000 through the present, and has provided documentation in the formed of signed lease agreements. The applicant has also provided evidence that he occupied the upper unit (Unit 2) until July 2009, and that Unit 2 has subsequently been occupied by rental tenants.
  - (3) *The off-street parking is adequate to serve the use.* This finding is met. Section 63.207 of the Saint Paul Zoning Code requires that dwelling units located in one- or two-family structure provide 1.5 off-street parking spaces per unit. The subject property provides two off-street spaces in the paved area of the side yard to the south of the structure, and an additional space in the attached garage.
  - (4) *Hardship would result if the use were discontinued.* This finding is met. The property provides reasonably priced, convenient housing for students of nearby William Mitchell College of Law. Discontinuation of the use would dislocate current tenants.

moved by Nelson  
 seconded by \_\_\_\_\_  
 in favor Unanimous  
 against \_\_\_\_\_

- (5) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. Duplexes are first allowed in the RT2 two-family residential district. The property is completely surrounded by R2 and B2 districts, and no RT2 districts are in the surrounding area.
  - (6) *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. While some additions to the structure have been made, the structure has stood on the lot since 1939. The surrounding area is a mix of institutional, residential and commercial uses, with all of which the proposed use is consistent. The proposed use will not be detrimental to the existing character of the neighborhood, nor endanger the public health, safety, or general welfare.
  - (7) *The use is consistent with the comprehensive plan.* This finding is met. The subject property is located near the intersection of an established neighborhood, a residential corridor, and a mixed use corridor as identified in figure LU-B of the Land Use chapter of the Comprehensive Plan. The density of housing represented by the proposed use—which provides for affordable rental housing in an affluent area—is generally consistent with the range of housing densities called for in these generalized land use areas. The proposed use is also consistent with strategy H1.1 from the Housing chapter of the Comprehensive Plan, which calls for the city to *increase housing choices across the city to support economically diverse neighborhoods* by providing for "a mix of rental and ownership units, a range of housing types, and diversity of income levels."
  - (8) *A notarized petition of two-thirds of the property owners within one hundred (100) feet the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on August 8, 2012: 8 parcels eligible; 6 parcels required; 6 parcels signed.
3. The Planning Commission has established guidelines for applications for nonconforming use permits for duplexes. While note themselves requirements, these guidelines lay out additional more objective factors the Planning Commission wishes to consider in determining if the required findings for granting nonconforming use permits listed in §62.109(a) of the Zoning Code can be made. The Planning Commission's Duplex Conversion Guidelines state that for applications for nonconforming use permits for duplexes in residential districts, staff will recommend denial unless the following guidelines are met:
- A. Lot size of at least 5000 square feet with a lot width or front footage of 40 feet.
  - B. Gross living area, after completion of duplex conversion, of at least 1500 square feet. Neither unit shall be smaller than 500 square feet.
  - C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.
  - D. All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)
  - E. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.

Guidelines A through C are met. The property owner has made unpermitted improvements and alterations to the subject property, including external improvements, over the course of several years. The subject property was originally converted to a duplex with internal remodeling circa 1994. Subsequent improvements have included external additions, including a dormer and three season porch on the west and south sides of the structure. The completion of fire safety and code compliance inspections, leading to the issuance of a fire certificate of occupancy and any improvements necessary to obtain the necessary permits and bring the entire structure into building and fire code compliance, should be a condition of approval.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Stephen Nelson for establishment of legal nonconforming use status as a duplex at 19 Milton St. S is hereby approved, subject to the following conditions:

1. The applicant shall immediately request a fire safety inspection of the subject property, with a provisional fire certificate of occupancy issued within one month, and a fire certificate of occupancy issued within a time period to be specified by fire safety inspections staff.
2. The applicant shall immediately request a code compliance inspection and shall obtain any necessary permits and make any necessary improvements so as to bring the structure at 19 Milton St. S into building and fire code compliance within one year.
3. The applicant shall reappear before the Zoning Committee for approval of any necessary external modifications required in order to bring the structure at 19 Milton St. S into building and fire code compliance before said improvements are made.

## DUPLEX CONVERSION GUIDELINES FOR ZONING CASES

Approved by the Board of Zoning Appeals June 30, 2009  
Approved by the Planning Commission August 21, 2009 (09-52)

### 1. Application Requirements.

**Plans.** In addition to the general application requirements of Zoning Code §§ 61.301, 61.302, and 61.801(b) (for rezonings), applications shall include a site plan showing total lot area and proposed off street parking (improved with a durable, permanent, dustless surface). In calculating the floor area of habitable rooms, only those portions of the floor area of a room having a clear ceiling height in excess of five (5) feet may be included. At least half of the floor area of any habitable room shall have a clear ceiling height of seven (7) feet or more. If exterior changes are proposed, exterior changes shall be consistent with the General Design Standards in Zoning Code § 63.110. All plans and drawings must show dimensions or be drawn to scale.

**Economic Feasibility Analysis.** An economic analysis worksheet provided by the City shall be completed and submitted with the application.

**MLS Listing from Most Recent Sale.** A copy of the MLS listing from the most recent sale shall be submitted with the application.

### 2. Applications for *variances* in RT1 or higher residential zones.

For proposed conversions of existing single-family structures to duplexes, staff will recommend denial unless, in addition to the required findings for variances contained in Zoning Code § 61.600, the following guidelines are met:

- A. Lot size of at least 5000 square feet with a lot width or front footage of 40 feet.
- B. Gross living area, after completion of duplex conversion, of at least 1500 square feet. Neither unit shall be smaller than 500 square feet.
- C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.
- D. All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)
- E. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.

3. Applications for *establishment of legal nonconforming use* or *reestablishment of legal nonconforming use*.

For residential uses in residential districts, staff will recommend denial unless the following guidelines are met:

- A. All required findings for nonconforming use permits in Zoning Code § 62.109(a) *Establishment of legal nonconforming use* or (e) *Reestablishment of nonconforming use* are met.
- B. That guidelines A - E in section 2 above are met.

4. Applications to *rezone single parcels to RT1 to provide for conversion to a duplex*.

Staff will assess the on-street parking conditions in the area as well as review the application against the following guidelines. Staff will recommend denial unless these guidelines are met:

- A. Lot size of at least 6000 square feet with a lot width or front footage of 50 feet.
- B. Gross living area after completion of the conversion of at least 1500 square feet for the two units. Neither unit shall be smaller than 500 square feet.
- C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.
- D. The proposed duplex structure is located in a mixed density neighborhood, not in a homogeneous single-family area.
- E. Notwithstanding any other law to the contrary, for the purpose of protecting the welfare and safety of the occupants of any structure that was converted without building permits prior to the application for rezoning, a code compliance inspection shall be conducted, and the necessary permits obtained to bring the entire structure up to building and fire code standards; or the property owner must make the necessary improvements to bring the entire structure into building and fire code compliance prior to registration of the structure as a duplex.
- F. The lot and surrounding area have not been previously rezoned as part of a community-wide plan and zoning study (district plan or small area plan).

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Stephen Nelson **FILE #** 12-091-512
  2. **APPLICANT:** Stephen Nelson **HEARING DATE:** August 30, 2012
  3. **TYPE OF APPLICATION:** NUP - Establishment
  4. **LOCATION:** 19 Milton St S, between Summit and Grand
  5. **PIN & LEGAL DESCRIPTION:** 022823310063, Summit Park Addition Tost Pa Ex W 5 Ft The S 95 Ft Of Lot 1 Blk 27
  6. **PLANNING DISTRICT:** 16 **PRESENT ZONING:** R2
  7. **ZONING CODE REFERENCE:** Sec. 62.109(a)
  8. **STAFF REPORT DATE:** **BY:** Josh Williams
  9. **DATE RECEIVED:** August 2, 2012 **60-DAY DEADLINE FOR ACTION:** October 1, 2012
- 

- A. **PURPOSE:** Establishment of legal nonconforming use status as a duplex
- B. **PARCEL SIZE:** 5225 sq. ft.
- C. **EXISTING LAND USE:** R-Duplex
- D. **SURROUNDING LAND USE:**
  - North: Residential (R2)
  - South: Alley, gas station (B2)
  - East: Church, parking lot (R2), retail (B2)
  - West: Residential (R2)
- E. **ZONING CODE CITATION:** §62.109(a) lists the conditions under which the Planning Commission may grant a permit to establish legal nonconforming use status.
- F. **HISTORY/DISCUSSION:** There is no prior zoning history for the subject property.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 16 Council had not made a recommendation as of the writing of this report.
- H. **FINDINGS:**
  1. The applicant is seeking to establish an existing duplex as a legal nonconforming use. Duplexes are first allowed in the RT2 two-family residential district; the subject property is located in the R2 one-family residential district. The applicant has supplied documentation demonstrating that the structure was converted from a single family home to a duplex in 1994 and has been in use as a duplex since that time. The subject lot does not meet lot minimum size dimensional standards for the R2 zoning district.
  2. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming use status to use of structures if the commission makes eight findings. The findings and the applicant's ability to meet them are as follows:
    - (1) *The use occurs entirely within an existing structure.* This finding is met. The use is by definition within the existing structure.
    - (2) *The use or use of similar intensity permitted in the same clause of the zoning code or in a more restrictive zoning district has been existence continuously for a period of at least ten years prior to the date of the application.* This finding is met. The applicant has submitted a list of tenants occupying the lower unit (Unit 1) from January 1, 2000 through the present, and has provided documentation in the form of signed lease agreements. The applicant has also provided evidence that he occupied the upper unit (Unit 2) until July 2009, and that Unit 2 has subsequently been occupied by rental tenants.
    - (3) *The off-street parking is adequate to serve the use.* This finding is met. Section 63.207 of the Saint Paul Zoning Code requires that dwelling units located in one- or two-family structure provide 1.5 off-street parking spaces per unit. The subject property provides two off-street spaces in the paved area of the side yard to the south of the structure, and an additional space in the attached garage.

- (4) *Hardship would result if the use were discontinued.* This finding is met. The property provides reasonably priced, convenient housing for students of nearby William Mitchell College of Law. Discontinuation of the use would dislocate current tenants.
  - (5) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. Duplexes are first allowed in the RT2 two-family residential district. The property is completely surrounded by R2 and B2 districts, and no RT2 districts are in the surrounding area.
  - (6) *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. While some additions to the structure have been made, the structure has stood on the lot since 1939. The surrounding area is a mix of institutional, residential and commercial uses, with all of which the proposed use is consistent. The proposed use will not be detrimental to the existing character of the neighborhood, nor endanger the public health, safety, or general welfare.
  - (7) *The use is consistent with the comprehensive plan.* This finding is met. The subject property is located near the intersection of an established neighborhood, a residential corridor, and a mixed use corridor as identified in figure LU-B of the Land Use chapter of the Comprehensive Plan. The density of housing represented by the proposed use—which provides for affordable rental housing in an affluent area—is generally consistent with the range of housing densities called for in these generalized land use areas. The proposed use is also consistent with strategy H1.1 from the Housing chapter of the Comprehensive Plan, which calls for the city to *increase housing choices across the city to support economically diverse neighborhoods* by providing for "a mix of rental and ownership units, a range of housing types, and diversity of income levels."
  - (8) *A notarized petition of two-thirds of the property owners within one hundred (100) feet the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on August 8, 2012: 8 parcels eligible; 6 parcels required; 6 parcels signed.
3. The Planning Commission has established guidelines for applications for nonconforming use permits for duplexes. While note themselves requirements, these guidelines lay out additional more objective factors the Planning Commission wishes to consider in determining if the required findings for granting nonconforming use permits listed in §62.109(a) of the Zoning Code can be made. The Planning Commission's Duplex Conversion Guidelines state that for applications for nonconforming use permits for duplexes in residential districts, staff will recommend denial unless the following guidelines are met:
- A. Lot size of at least 5000 square feet with a lot width or front footage of 40 feet.
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  - C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.
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  - E. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.

Guidelines A through C are met. The property owner has made unpermitted improvements and alterations to the subject property, including external improvements, over the course of several years. The subject property was originally converted to a duplex with internal remodeling circa 1994. Subsequent improvements have included external additions, including a dormer and three seasons porch on the west and south sides of the structure. A fire safety inspection, and issuance of a conditional fire certificate of occupancy within one month and issuance of a fire certificate of occupancy within a time period to be specified by fire safety inspections staff, should be a condition of approval.

**I. STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the application for establishment of legal nonconforming use as a duplex, subject to the applicant requesting a fire safety inspection of the subject property and the issuance within one month of a conditional fire certificate of occupancy and the issuance of a fire certificate of occupancy within a time period to be specified by fire safety inspections staff.



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

## Code Compliance Report

October 01, 2012

Stephen R Nelson  
19 Milton St S  
St Paul MN 55105-3025Re: 19 Milton St S  
File#: 12 102931 000

Dear Property Owner:

The following is the Code Compliance report you requested on September 10, 2012.

Please be advised that this report is accurate and correct as of the date October 01, 2012. All deficiencies identified by the City after this date must also be corrected and all codes and ordinances must be complied with. This report is valid for 365 days from October 01, 2012. This report may be used in lieu of a Truth in Housing Report required in St Paul Legislative Code 189. This building must be properly secured and the property maintained at all times.

In order to sell or reoccupy this property the following deficiencies must be corrected:

**BUILDING**      **Inspector: Jim Seeger**      **Phone: 651-266-9046**

- Install address numbers visible from street and on the alley side of garage.
- Openings in stair risers must be less than 4 inches.
- Install grippable handrails on rear 2nd floor entry stairs.
- Install tempered glass in rear garage window.
- Install guardrail and handrail on basement stairs.
- Replace double cylinder deadbolts with thumb turn on inside.
- Rebuild rear stairs to 2nd floor so riser height is uniform.
- Install smoke detectors in bedrooms.
- Install 20 minute fire rated door at entry door to 1st. floor unit at top of basement stairs.
- A building permit is required to correct the above deficiencies.

**ELECTRICAL**      **Inspector: Steve Reimers**      **Phone: 651-266-9037**

- Provide a complete circuit directory at service panel indicating location and use of all circuits
- Verify/install a separate 20 ampere laundry circuit and a separate 20 ampere kitchen appliance circuit
- Verify that circuit breaker amperage matches wire size

Re: 19 Milton St S  
October 1, 2012  
Page 2

**ELECTRICAL**      **Inspector: Steve Reimers**      **Phone: 651-266-9037**

- Properly strap cables and conduits in basement
- Remove all cord wiring
- Repair or Replace all broken, missing or loose light fixtures, switches and outlets, covers and plates
- Check all outlets for proper polarity and verify ground on 3-prong outlets
- Install hard-wired, battery backup smoke detector and other smoke detectors as required by the IRC. Also, Install carbon monoxide detector(s) within 10 feet of all bedrooms
- Install exterior lights at front/side/back entry doors
- Remove and or/ re-wire all illegal, improper or hazardous wiring in basement/garage/2nd floor addition.
- Raise service wires per NEC 230.24(b)
- Install missing electrical boxes for outlets at 2nd floor.
- Per code maintain 36 inches in front of electrical panel.
- Due to repair list purchase permit for service and 12 circuits.
- All added receptacles must be grounded, tamper-resistant and be on an Arc-Fault Circuit Interrupter-protected circuit.
- Any open walls or walls that are opened as part of this project must be wired to the standards of the 2008 NEC.
- All buildings on the property must meet the St. Paul Property Maintenance Code (Bulletin 80-1).
- All electrical work must be done by a Minnesota-licensed electrical contractor under an electrical permit.

**PLUMBING**      **Inspector: Tom Schweitzer**      **Phone: 651-266-9055**

- Basement - Water Heater - No gas shut off or gas piping incorrect (MFGC 402.1)
- Basement - Water Heater - Vent must be in chimney liner (MFGC 501.12)
- Basement - Water Heater - gas venting incorrect (MFGC 503)
- Basement - Water Meter - support meter properly (MPC 2280)
- Basement - Water Piping - pipe sizing incorrect (MPC 4715.1730)
- Basement - Gas Piping - dryer gas shutoff; connector or piping incorrect (MFGC 411)
- Basement - Gas Piping - run dryer vent to code (MFGC 614.1 - 614.7)
- Basement - Laundry Tub - provide a vacuum breaker for the spout (MPC 2000 B)
- Basement - Laundry Tub - waste incorrect (MPC 2300)
- First Floor - Laundry Tub - incorrectly vented (MPC 2500)
- First Floor - Toilet Facilities - incorrectly vented (MPC 2500)
- First Floor - Tub and Shower - provide anti-scald valve (MPC 1380. Subp. 5)
- Second Floor - Lavatory - incorrectly vented (MPC 2500)
- Second Floor - Lavatory - waste incorrect (MPC 2300)
- Second Floor - Sink - incorrectly vented (MPC 2500)
- Second Floor - Sink - waste incorrect (MPC 2300)
- Second Floor - Toilet Facilities - incorrectly vented (MPC 2500)
- Second Floor - Toilet Facilities - waste incorrect (MPC 2300)

Re: 19 Milton St S  
October 1, 2012  
Page 3

**PLUMBING**      **Inspector: Tom Schweitzer**      **Phone: 651-266-9055**

- Second Floor - Tub and Shower - Provide access (MPC 0900)
- Second Floor - Tub and Shower - incorrectly vented (MPC 2500)
- Second Floor - Tub and Shower - provide anti-scald valve (MPC 1380. Subp. 5)
- Attic - Need full size vent thru roof.
- Exterior - Lawn Hydrants - Requires backflow assembly or device (MPC 2000)
- Obtain plumbing permits prior to commencement of work.

**HEATING**      **Inspector: Kevin Chapdelaine**      **Phone: 651-266-9042**

- Clean and Orsat test furnace burner. Check all controls for proper operation. Check furnace heat exchanger for leak; provide documentation from a licensed contractor that the heating unit is safe
- Vent clothes dryer to code
- Provide a window in the bathrooms with an aggregate glazing area of not less than 3 square feet, one-half of which must be openable or provide exhaust system vented to outside. A mechanical ventilation permit is required if an exhaust system is installed.
- All supply and return ducts for warm air heating system must be clean before final approval for occupancy. Provide access for inspection of inside of ducts or provide documentation from a licensed duct-cleaning contractor that the duct system has been cleaned.
- A forced warm air heating system may only serve one dwelling unit - dwelling separation required.
- Mechanical gas and warm air permits are required for the above work.

**ZONING**

1. This property is in a(n) R2 zoning district.
2. This property was inspected as a Single Family Dwelling.

**Notes:**

- See attachment for permit requirements and appeals procedure.

You may file an appeal to this notice by contacting the City Clerk's Office at 651-266-8688. Any appeal must be made in writing within 10 days of this notice. (You must submit a copy of this notice when you appeal, and pay a filing fee.)

If you have any questions regarding this inspection report, please contact Jim Seeger between 7:30 - 9:00 AM at 651-266-9046 or leave a voice mail message.

Sincerely,

James L. Seeger, Code Compliance Officer  
Phone: 651-266-9046  
JLS:ml

Email: james.seeger@ci.stpaul.mn.us  
Attachments

**STAMP - Activity Detail**[New Search](#)[Help using this report](#)[E-mail Service Desk](#)**19 Milton St S**

Click [here](#) to access other applications using this address - GISmo, MapIT, and Ramsey County Info

**Run** 10/25/12 03:17 PM**Date:****Folder** 12 112801**In Date:** 10/04/12**Issued** 10/15/12**ID#:****Date:****Status:** Active/Issued**Expiry Date:** 04/13/13**Closed:****Type:** B - Building Permit - 2-Family/Duplex - Repair**Description:**

HPC The following "Trade" Permits are required for this project: Electrical, Plumbing,

**Condition:**

HAND RAIL, STAIR RISER, INTERIOR FIRE RATED DOOR, REPAIRS PER CODE COMPLIANCE REPORT (NOT A VACANT BUILDING). APPROVED FOR LEGAL-NONCONFORMING USE AS A DUPLEX, 12-091512, BY THE PLANNING COMMISSION.

**People:**

Contractor:

Stephen R Nelson

4944 207th St N

Forest Lake MN 55025

651-290-0156

Stated Owner:

Stephen R Nelson

4944 207th St N

Forest Lake MN 55025

651-290-0156

**Property:**

19 MILTON ST S, PIN: 022823310063

**Info Value:**

Penalty Fee: No

Change/Expansion of Use?: No

Existing Primary Use (2-Family): R-Duplex

# of Existing Dwelling Units: 2

# of Dwelling Units Worked On: 2

Estimated Value of Work: \$500.00

State Valuation: \$500.00

Valuation Override: No

Scope of Repair Work : Code Compliance Repairs

Structural Work?: No Structural Work

Interior/Exterior?: Both Int. and Ext.

Plan Number: V-2012-2134

Type of Plan: V-Vertical File

Plan Check Fee: No Plan Check Fee

Electrical Permit Required?: Yes

WAir/Ventilation Permit Req'd?: No

Plumbing Permit Required?: Yes

Sprinkler Permit Required?: No

Mechanical Permit Required?: No

Field Application?: No

Surcharge Report Valuation: \$1,000.00

**Fee:**

Building Permit Fee: \$28.60 - Paid in Full: Yes - Payment Type: Check - Payment Date:

10/15/2012

Surcharge B: \$0.50 - Paid in Full: Yes - Payment Type: Check - Payment Date: 10/15/2012  
Parks Dedication Fee (DC 16): \$0.00 - Paid in Full: Yes - Payment Type: Check - Payment Date: 10/15/2012

---

**Front Counter**

**Assigned To:** Donovan, Kathy

**Closed:** 10/04/12

**Result:**

**10/04/2012:** Approved

---

**Architectural (R) Review**

**Assigned To:** Dufresne, Dori

**Comment:** V-2012-2134

**Closed:** 10/15/12

**Result:**

**10/04/2012:** Preliminary Plan Check

**10/15/2012:** Approved

---

**HPC Staff Review**

**Assigned To:** Spong, Amy

**Comment:** Closed by approval on the HP Folder (12-116330)

**Closed:** 10/15/12

**Result:**

**10/15/2012:** Approved w/Conditions - Christine Boulware

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**Building Permit Inspection**

**Assigned To:** Eggers, Ken

**Next Schedule:** 10/15/12

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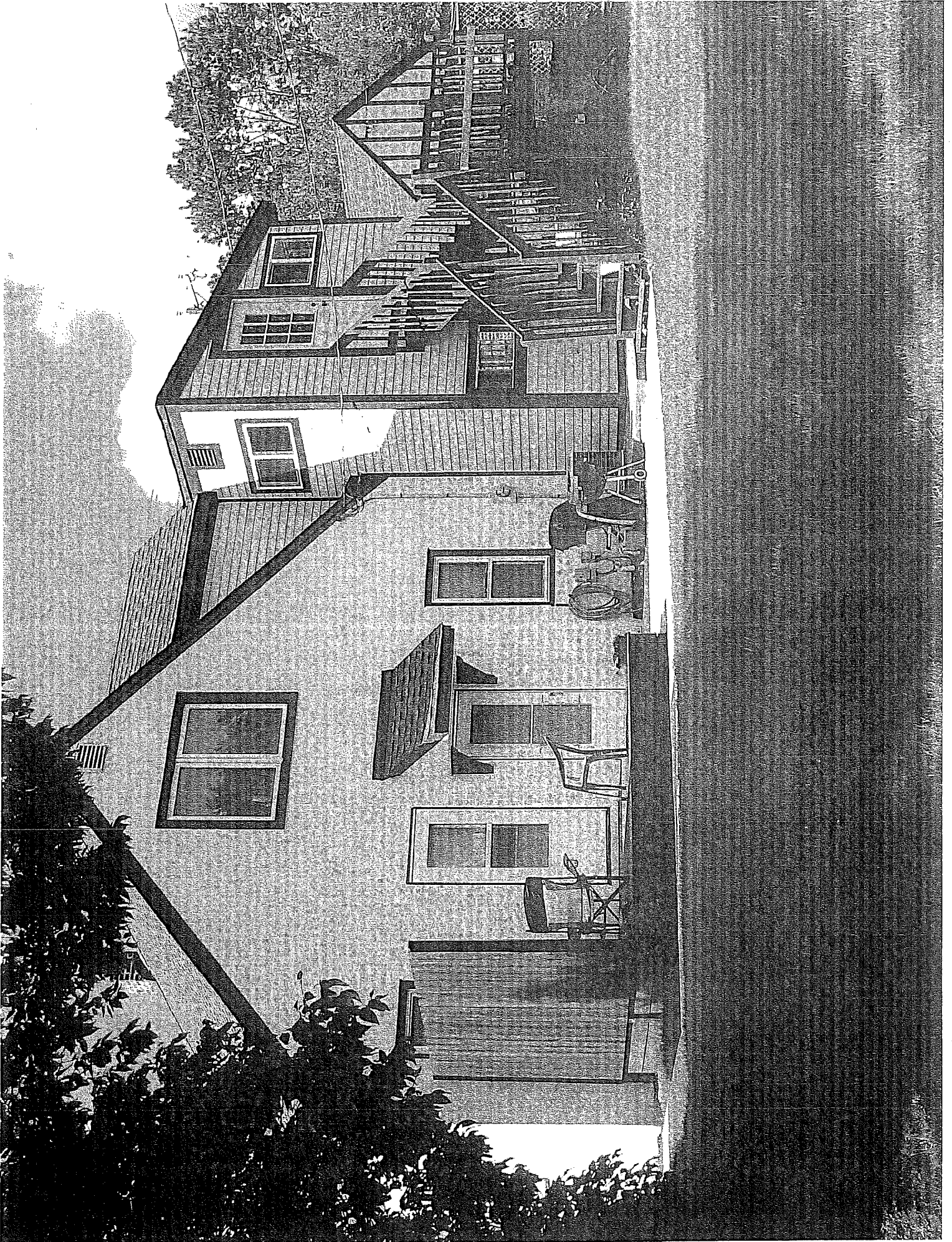
**Zoning Review**

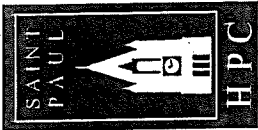
**Assigned To:** Zacho, Karen

**Closed:** 10/05/12

**Result:**

**10/05/2012:** Approved - PC APPROVED DUPLEX USE 12-091512.





**CITY OF SAINT PAUL  
HERITAGE PRESERVATION COMMISSION  
CERTIFICATE OF APPROVAL FOR MINOR WORK  
FILE NUMBER: 12-116330**

**POST THIS PAGE  
SO IT IS VISIBLE FROM THE STREET**

**DATE:** October 15, 2012  
**PROJECT ADDRESS:** 19 MILTON ST S  
**HPC SITE/DISTRICT:** HPL-Hill  
**APPLICANT:** Stephen R Nelson  
**PHONE:** 651-290-0156

**PROPERTY DESCRIPTION:** A one story cape style house with a stucco exterior and asphalt shingles. An addition was added to the rear of the property in 2003.

**SITE NAME:**  
**ARCHITECT/BUILDER:** Wm. Kopp  
**DATE BUILT:** 1938  
**CLASSIFICATION:** Non-Contributing

**PROPOSED CHANGES:** Add gripable handrail on the right side of the stair case going up to the second floor door. Make the bottom step of the upper landing the same width as the other steps. Install full risers on all steps.

☐ **APPROVED AS SUBMITTED**

☒ **APPROVED WITH CONDITIONS:**

The following conditions must be met in order to comply with the applicable preservation program [Leg. Code, § 73.06 (c)(e)]:

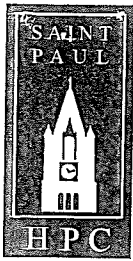
1. Paint within six months to one year of permit issuance.

Christine Baulwore 10-15-12  
Signature of Authorized Official as stated in Legislative Code, § 73.06 (e)

**NOTE:** All plans must be stamped approved before a city permit is issued. This approval does not obviate the need for meeting applicable building and zoning code requirements. An HPC approval or conditional approval expires after one year if no permit has been issued. If revisions to the approved plan are made, be aware that an additional HPC and/or staff review will be required. Post this notice so that it is visible from the street and until completion of the project.

**Attachment E**





**CITY OF SAINT PAUL  
HERITAGE PRESERVATION COMMISSION  
CERTIFICATE OF APPROVAL FOR MINOR WORK  
FILE NUMBER: 12-116330**

**DATE:** October 15, 2012  
**PROJECT ADDRESS:** 19 MILTON ST S  
**HPC SITE/DISTRICT:** HPL-Hill  
**APPLICANT:** Stephen R Nelson  
**PHONE:** 651-290-0156  
**OWNER INFORMATION:** STEPHEN R NELSON  
4944 207TH ST N  
FOREST LAKE MN 55025

**PROPOSED CHANGES:** Add gripable handrail on the right side of the stair case going up to the second floor door. Make the bottom step of the upper landing the same width as the other steps. Install full risers on all steps.

The work to be performed has been approved pursuant to the program for preservation and architectural control for the applicable heritage preservation site or district property [Legislative Code, Section 73.06]. In addition, the following findings have been made to support the approval or conditional approval:

1. The property was constructed in 1938 and is categorized as non-contributing to the Hill Historic District.
2. The majority of the work was completed at this property without a building permit or HPC review and approval.
3. The work proposed is required to comply with code compliance. The installation of a gripable handrail, risers and tread replacement at the stairs to the upper until will not have a negative impact on the property.

Please note: This approval is limited to the aforementioned work to the affected property. Any additional work to be done must be submitted to the St. Paul Heritage Preservation Commission. Any unauthorized work will be required to be removed.

City of Saint Paul  
Department of Safety and Inspections  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101-1806  
PHONE: (651) 266-9090  
FAX: (651) 266-9124







**CITY OF SAINT PAUL**  
Christopher B. Coleman, Mayor

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6700  
Facsimile: 651-228-3220

DATE: November 9, 2012  
TO: Planning Commission  
FROM: Zoning Committee  
SUBJECT: Results of November 8, 2012, Zoning Committee Hearing

**OLD BUSINESS**

1. **Hip Hounds Inc ( 12-109-252 )**  
Establishment of legal nonconforming use as dog daycare with outdoor relief/exercise area

**Address:** 1752 Grand Ave  
between Wheeler and Fairview

**District Comment:** District 14 recommended approval

**Support:** 5 people spoke, 39 letters

**Opposition:** 0 people spoke, 1 letter

**Hearing:** Hearing is closed

**Motion:** Approval with conditions

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Denial	Approval with conditions ( 6 - 0 )

**NEW BUSINESS**

2. **Metropolitan Council-Environmental Services ( 12-202-256 )**  
Conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill.

**Address:** 2225-2255 Childs Road  
Terminus of Childs Road

**District Comment:** District 1 made no recommendation

**Support:** 0 people spoke, 0 letters

**Opposition:** 0 people spoke, 0 letters

**Hearing:** Hearing is closed

**Motion:** Approval with a condition

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Approval with a condition	Approval with a condition ( 6 - 0 )

3.

**Good Guys Auto Body ( 12-115-857 )**

Reestablishment of nonconforming use as an auto body shop

**Address:** 744 3rd St E  
SW corner at Maple

**District Comment:** District 4 made no recommendation

**Support:** 0 people spoke, 1 letter of concern

**Opposition:** 0 people spoke, 0 letters

**Hearing:** Hearing is closed

**Motion:** Approval with conditions

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>

Approval with  
conditions

Approval with  
conditions  
( 6 - 0 )

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Hip Hounds Inc., File # 12-109-252, has applied for an establishment of legal nonconforming use as dog daycare with outdoor relief/exercise area under the provisions of §62.109(a) of the Saint Paul Legislative Code, on property located at 1752 Grand Ave, Parcel Identification Number (PIN) 04-28-23-42-0030, legally described as Lot 3, Blk 4, Elmer Morrisons Rearrangement; and

WHEREAS, the Zoning Committee of the Planning Commission, on November 8, 2012, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant, Hip Hounds Inc., has applied for a permit to establish legal nonconforming use status for a dog daycare facility at 1752 Grand Avenue at the direction of the Dept. of Safety & Inspections.
2. Animal daycare is not specifically listed as a permitted use under the City's Zoning Code. Section 66.101(c), prohibited uses, states that "any use not listed as either "P" (permitted) or "C" (conditional) in a particular district, or... not [specifically] determined... to be substantially similar to a listed permitted or conditional use, shall be prohibited in that district." In 2007, the City's Zoning Administrator determined that an animal daycare commercial use is similar to other uses in the IR, I1, and I2 industrial zoning districts. Within the IR and I1 light industrial districts the use would be an indoor use only. The entire operation must be located within a completely enclosed building. Within the I2 general industrial district the use may have an accessory outdoor, fenced run/relief area provided the property does not adjoin a property occupied by a residential use. The outdoor run/relief area must be supervised when any animals are occupying this area.
3. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming use status to use of structures if the commission makes eight findings. The findings and the applicant's ability to meet them are as follows:
  - (1) *The use occurs entirely within an existing structure.* This finding can be met subject to conditions that the dog daycare business occurs entirely within the existing structure except for use of a visually screened and fenced outdoor relief area in the back of the property limited to no more than three dogs at one time (similar to dog daycare permitted as a home occupation with a limit of three dogs), for up to twenty minutes at a time, under the direct supervision of a staff member.
  - (2) *The use or use of similar intensity permitted in the same clause of the zoning code or in a more restrictive zoning district has been existence continuously for a period of at least ten years prior to the date of the application.* This finding is met. The facility opened in 1999, when it was licensed as a pet grooming facility. Based on testimony from the current owner, the original owner, and

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

clients of the business, there has been a dog daycare business at 1752 Grand Avenue continuously since 1999, approximately 13 years prior to the date of this application. While a new pet grooming facility license issued to the present owner in 2005 included the condition that dog daycare not be permitted at the facility, in December 2007, a complaint was registered with DSI stated: "Operating a Dog Day Care business out of the back end of this building. I see no permit or license for 'The KEEPING OF ANIMALS' current for this business. The business regularly 'KEEPS' & 'Cares for' more than 3 dogs at the address on a daily basis." After referral to DSI Animal Control Response, the complaint was closed with the statement "This is a pet grooming facility that is licensed by the City." There are no further details about that inspection.

- (3) *The off-street parking is adequate to serve the use.* This finding is met. The business provides five off-street parking spaces for customers and employees in a lot in the back of the building. This is a legal nonconforming parking deficiency of 1 parking space.
- (4) *Hardship would result if the use were discontinued.* This finding is met. This was a pre-existing business purchased by the present owner, and that has been operating successfully and with minimal complaint for many years. The owner and employees of the business would face undue hardship should this use be discontinued.
- (5) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. The surrounding properties are mostly zoned residential, with mixed residential-commercial zoning along Grand Avenue. Rezoning this property to an industrial zone would be inappropriate for the surrounding land uses.
- (6) *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding can be met subject to conditions that the dog daycare business is limited to the hours of 7:00 AM to 6:30 PM Monday through Friday, and that the use occurs entirely within the existing structure except for use of a visually screened and fenced outdoor relief area in the back of the property limited to no more than three dogs at one time (similar to dog daycare permitted as a home occupation with a limit of three dogs), for up to twenty minutes at a time, under the direct supervision of a staff member. This use has the support of the Macalester Groveland District Council and the Grand Avenue Business Association, and has had very few complaints from neighbors.
- (7) *The use is consistent with the comprehensive plan.* This finding is met. The proposed use meets the goals of Land Use strategy 1.24 in the Saint Paul Comprehensive Plan, which is to "support a mix of uses in a Mixed-Use Corridor."
- (8) *A notarized petition of two-thirds of the property owners within one hundred (100) feet the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on October 2, 2012: 13 parcels eligible; 9 parcels required; 10 parcels signed.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Hip Hip Hounds Inc for an establishment of legal nonconforming use as dog daycare with outdoor relief area at 1752 Grand Ave is hereby approved subject to the following conditions:

- 1. The dog daycare use shall occur entirely within the existing structure except for use of a visually screened and fenced outdoor relief area in the back of the property limited to no more than three dogs at one time, for up to twenty minutes at a time, under the direct supervision of a staff member.
- 2. The dog daycare use shall be limited to the hours of 7:00 AM to 6:30 PM Monday through Friday.
- 3. This nonconforming use permit shall expire when the property is redeveloped with a new use or when ownership of the use or property is transferred.

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, the Metropolitan Council, File # 12-202-256, has applied for a conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill, under the provisions of §§ 61.501, 72.32, and 72.74 of the Saint Paul Legislative Code, on property located at 2225-2255 Childs Road, Parcel Identification Number (PIN) 092822140002, legally described as Port Authority Plat No. 3 SLY 140 Ft of Lot 6 and all of Lot 7 Blk 5; and

WHEREAS, the Zoning Committee of the Planning Commission, on November 8, 2012, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant, the Metropolitan Council, is proposing to install a water quality monitoring station at a location just upstream of the Pigs Eye Waster Water Treatment Plant. They propose to construct a flood-proof 6' x 10' platform on which to elevate water quality sampling equipment to the regulatory flood protection elevation (RFPE) of 708.3 feet above mean sea level. The sampling equipment is contained in a 5' x 5' x 7' shelter, which, although not required by floodplain regulations, will be removed in times of flooding. The applicant has provided an executed agreement with the owner of the property, Westway Terminal Company LLC, which provides for leasing of space for the platform and monitoring equipment, and terms of site access for Metropolitan Council personnel. The proposed project requires a conditional use permit for elevation of a structure (the water quality sampling equipment shelter) on an alternative to fill (the flood-proof platform).
2. §72.74 lists standards for conditional uses in the FF flood fringe district.
  - (a) *Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls or above grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: 1) the enclosed area is above grade on at least one (1) side of the structure; 2) is designed to internally flood and is constructed with flood-resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:*
    - (1) *Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service*

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

*facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.*

- (2) Specific standards for above grade, enclosed areas. Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:*
  - a. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of intervention.*
  - b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the Minnesota State Building Code and shall be used solely for building access, parking of vehicles or storage.*

This standard can be met, subject to condition. The applicant is proposing to construct a platform to elevate a shelter for water quality sampling equipment. The platform will be constructed on pilings sunk in to the landward side of a privately-owned earthen levee, and will consist of a steel frame and galvanized grating, with no enclosed areas. The sampling shelter will be mounted with clips to allow removal. The applicant has provided specifications with an engineer's certification that the specifications are in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities will be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding. The applicant has also agreed that, as a condition of approval, a similar certification regarding as-built condition shall be supplied.

- (b) Basements, as defined in §72.14, shall be subject to the following:*
  - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation except as authorized in subsection (e) of this section.*
  - (2) Nonresidential basements may be allowed below the regulatory flood-protection elevation, provided the basement is protected in accordance with subsection (c) or (e) of this section.*

This standard is met; the sampling shelter includes no basement.

- (c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the Minnesota State Building Code. This shall require making the structure watertight, with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.*

This standard is met. The sampling shelter will not include areas below the RFPE.

- (d) The storage or processing of materials that are, in times of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the planning commission, or if*

*elevated above the regulatory flood protection elevation by alternative methods which meet the requirements of subsection (a) above. Storage of bulk materials may be allowed provided an erosion/sedimentation control plan is submitted which clearly specifies methods to be used to stabilize the materials on site for a regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the planning commission.*

This condition is met. There will be no storage of any materials of any kind.

- (e) *When the Federal Emergency Management Agency has issued a letter of map revision-fill (LOMR-F) for vacant parcels of land elevated by fill to the one (1) percent chance flood elevation, the area elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the area elevated by fill with the lowest floor below the regulatory flood protection elevation provided the structure meets the following provisions:*

- (1) No floor level or portion of a structure that is below the regulatory flood protection elevation shall be used as habitable space or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by floodwaters. Habitable space shall be defined as any space in a structure used for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space, and similar areas are not considered habitable space.*
- (2) For residential and nonresidential structures, the basement floor may be placed below the regulatory flood protection elevation subject to the following standards:*
  - a. The top of the immediate floor above any basement area shall be placed at or above the regulatory flood protection elevation..*
  - b. Any area of the structure placed below the regulatory flood protection elevation shall meet the "reasonably safe from flooding" standards in the Federal Emergency Management Agency (FEMA) publication entitled "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding," Technical Bulletin 10-01, a copy of which is hereby adopted by reference and made part of this chapter. In accordance with the provisions of this chapter, and specifically section 72.33(g), the applicant shall submit documentation that the structure is designed and built in accordance with either the "Simplified Approach" or "Engineered Basement Option" found in FEMA Technical Bulletin 10-01.*
  - c. If the ground surrounding the lowest adjacent grade to the structure is not at or above the regulatory flood protection elevation, then any portion of the structure that is below the regulatory flood protection elevation must be floodproofed consistent with any of the FP-1 through FP-4 floodproofing classifications found in the Minnesota State Building Code.*

This condition is met. No letter of map revision-fill (LOMR-F) has been issued for the project location.

3. §72.32 lists thirteen (13) factors to be considered in evaluating applications for conditional use permits in the FF flood fringe district:

- (1) The relationship of the proposed use to the comprehensive plan and floodplain management program for the city. The proposed use is in compliance with the Saint Paul Comprehensive Plan. Strategy 2 of the Water Resources Management chapter of the Comprehensive Plan is to Reduce Pollutant Loads to Water Bodies and Strategy 3 is to Operate and Maintain a Cost Effective Sanitary Sewer Infrastructure. While specific policies in the chapter do not identify a role for the City in water quality monitoring, monitoring is a logical component of water quality improvement efforts, and will allow the Metropolitan Council to more effectively assess the impacts of the Pigs Eye Wastewater Treatment Plant on the Mississippi River. By satisfying the purposes of this chapter as elsewhere described, the proposed use is consistent with the floodplain management program of the city.*

- (2) *The importance of the services provided by the proposed facility to the community.* The proposed water quality monitoring station will provide data for use in water quality improvement efforts.
- (3) *The ability of the existing topography, soils, and geology to support and accommodate the proposed use.* The applicant has provided a geotechnical support which include specifications for a piling system sufficient to secure and support the flood-proof platform and monitoring equipment.
- (4) *The compatibility of the proposed use with existing characteristics of biologic and other natural communities.* The area of the proposed use is industrial in character, and does not contain significant biological communities; impacts of the proposed use will not extend beyond the immediate area.
- (5) *The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions.* The existing terminal where the sampling equipment will be located is already served by adequate water supply and sanitation systems. The proposed project will not create additional demand for water supply or sanitation capability.
- (6) *The requirements of the facility for a river-dependent location, if applicable.* The proposed sampling equipment needs direct access to river water for sampling purposes.
- (7) *The safety of access to the property for ordinary vehicles.* Safe access to the site is available for all vehicles via Childs Road.
- (8) *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.* The proposed platform is of open construction and composed of flood-resistant materials, rendering it highly resistant to flood damage. Monitoring equipment will be removed in times of flooding.
- (9) *The dangers to life and property due to increased flood heights or velocities caused by encroachments.* The encroachments are of limited footprint and located in the flood fringe, where impacts on flood flows are negligible.
- (10) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.* The proposed platform will be located in the flood fringe, where the velocity of flood flow is in general reduced. It is will be constructed of flood-resistant materials and requires no modifications or actions to become flood-proof; as a result, flood height, rate of rise, and duration are not significant factors. The monitoring equipment is subject to flood damage, but will be located above the RFPE and thus not subject to further regulation.
- (11) *The danger that materials may be swept onto other lands or downstream to the injury of others.* The proposed platform will be located on the landward-side of an existing earthen levee, out of the primary flow of flood waters. It will be constructed to provide minimum resistance to flood waters and of non-bouyant materials, thus reducing the risk of becoming borne by flood waters.
- (12) *The availability of alternative locations or configurations for the proposed use.* The proposed platform is being built to accommodate water quality sampling equipment and must be located as near as possible to the Mississippi River and immediately upstream of the Pigs Eye Wastewater Treatment Plant. There are not suitable alternative locations.
- (13) *Such other factors as are relevant to the purposes of this chapter.* The factors and findings enumerated and described herein adequately evaluate the proposed use for the purposes of this chapter.



4. §61.501 lists five standards that all conditional uses must satisfy:
  1. *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The proposed use is in compliance with the Saint Paul Comprehensive Plan. Strategy 2 of the Water Resources Management chapter of the Comprehensive Plan is to *Reduce Pollutant Loads to Water Bodies* and Strategy 3 is to *Operate and Maintain a Cost Effective Sanitary Sewer Infrastructure*. While specific policies in the chapter do not identify a role for the City in water quality monitoring, monitoring is a logical component of water quality improvement efforts, and will allow the Metropolitan Council to more effectively assess the impacts of the Pigs Eye Wastewater Treatment Plant on the Mississippi River
  2. *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The existing facility is adequately served by Childs Road, and the proposed addition will not increase the operational capacity of the facility.
  3. *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The existing character of the immediate neighborhood is industrial in nature; the proposed use is minor in scale in comparison to the terminal property where it will be located, and will have no significant impact on the surrounding area, nor will it endanger the public health, safety, or general welfare.
  4. *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use is consistent with the industrial nature of the surrounding properties, and will not impeded improvement of surrounding properties for allowed uses.
  5. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The use conforms to all applicable regulations of the I2 general industrial district and the FF flood fringe district.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Metropolitan Council for a conditional use permit for a 5' x 5' x 7' water sampling shelter elevated to be above the regulatory flood protection elevation by a method other than fill is hereby approved, subject to the condition that the applicant provide a certification signed by a registered professional engineer or architect that the as-built condition of the elevating platform is in compliance with the general design standards of the Minnesota State Building Code, and specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Hill Properties Inc., File # 12-115-857 (Good Guys Auto Body), has applied for a reestablishment of nonconforming use as an auto body shop under the provisions of §62.109(e) of the Saint Paul Legislative Code, on property located at 744 3rd St E, Parcel Identification Number (PIN) 322922140214, legally described as Lyman Dayton Addition Nwly 76 Ft Of Lots 25 And Lot 26 Blk 37; and

WHEREAS, the Zoning Committee of the Planning Commission, on November 8, 2012, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The application is to reestablish the nonconforming use of an auto body shop that operated on the site from approximately 1978 to May 2011.
2. Section 62.109(e) states: *When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:*
  - (1) *The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose.* This finding is met. The previous owner invested significant money to adapt the property for use as an auto body shop. Investments specialized to the auto body shop use include four overhead doors, a paint booth with exhaust system, a fire suppression system, a compressor room with two 300-gallon compressors, and an in-ground car hoist. The current owner accounted for being able to use these investments when purchasing the property.
  - (2) *The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use.* This finding is met. The proposed use is the same as the previous nonconforming use.
  - (3) *The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. 3<sup>rd</sup> Street is an arterial street with a direct connection to Downtown that features neighborhood-scale commercial uses at several intersections in this area. No building or site expansion is requested that would change the property's character. While an auto body shop could be detrimental to the area's character depending on how it operates, the business plan presented by the applicant limits the negative impacts and scale of the business (i.e. all work conducted inside the building, no street parking, daytime only hours of operation, maximum three employees). The business plan presented portrays a neighborhood-scale business that will be compatible with the surrounding area.

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

- (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan designates 3<sup>rd</sup> Street as a Residential Corridor that is surrounded by an Established Neighborhood, as shown in the Generalized 2030 Future Land Use Map (Figure LU-B). The Comprehensive Plan states, "Established Neighborhoods are residential areas of predominately single-family housing and adjacent neighborhood-serving commercial uses. These are areas of stability where the existing character will be essentially maintained." The use is consistent with the District 4 Area Plan, adopted in 2009, which includes Strategy C3: "Promote the reuse, instead of demolition, of existing commercial buildings."
- (5) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on October 12, 2012: 28 parcels eligible; 19 parcels required; 20 parcels signed.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Hill Properties Inc. for a reestablishment of nonconforming use as an auto body shop at 744 3rd St E is hereby approved subject to the following conditions:

1. Zoning Administrator approval of the parking layout.
2. Maximum number of employees is 3.
3. Hours of operation shall be within the hours of 8:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday. The business shall be closed on Sundays.
4. Auto body work only; no mechanical/engine work is allowed.
5. All work shall be conducted inside the building.
6. No non-functioning vehicles, vehicles missing parts, or totaled vehicles may be parked outside the building overnight.



**CITY OF SAINT PAUL**  
Christopher B. Coleman, Mayor

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6565  
Facsimile: 651-228-3261

**DATE:** November 8, 2012  
**TO:** Planning Commission  
**FROM:** Neighborhood Planning Committee  
**SUBJECT:** Update of the West Side Flats Master Plan and Development Guidelines

### **BACKGROUND**

The West Side Flats Urban Village is bounded by Wabasha Street on the west, the Mississippi River on the north, Robert Street on the east, and Plato Boulevard on the south. Approximately 40 acres in size, it sits at the heart of the central Mississippi riverfront in Saint Paul, a post-industrial site awaiting redevelopment.

At the turn of the 20<sup>th</sup> century, the area was predominantly residential, a multi-ethnic neighborhood of welcome for new immigrants. After many years of flooding, however, the homes were removed and residents relocated, mostly to other locations on the West Side. By the mid-1900s, as on so many urban waterfronts, industrial uses populated the river's edge. By the 1980s, however, the role of the river was changing from a transportation and industrial corridor to a recreational corridor. As water quality improved, noxious industrial uses were removed from the West Side Flats. Today, the City recognizes its Mississippi riverfront as a high-amenity location for infill mixed-use development that reconnects city neighborhoods to the river.

Due to a sluggish economy, the West Side Flats Urban Village has seen limited redevelopment over the past decade. However, given its location on the Mississippi River, adjacent to a vital community (the West Side), near downtown, well-served by transit, and in the midst of a resurgence of the housing market (especially on high-amenity sites), the City is confident that the next phase of revitalization is at hand.

In order to prepare for this opportunity, PED issued a Request for Proposals (RFP) from qualified multi-disciplinary consultant teams to assist PED in updating the *West Side Flats Master Plan and Development Guidelines*, which governs the 40-acre West Side Flats Urban Village. The update will include an expanded planning area to include approximately 50 acres to the east (see attached map). Experience with development proposals on adjacent land, and the lack of any specific plan guidance to proactively pursue appropriate redevelopment in that area, has impressed on the City the need to look at the entire West Side riverfront. The RFP was issued on October 12, 2012, and proposals are due November 9, 2012. The plan update will begin in December 2012 and be completed by December 31, 2013.

## **PLANNING PRECEDENTS**

The West Side Flats Urban Village has been the subject of significant planning attention over the past 20 years. Beginning with the *Saint Paul on the Mississippi Development Framework* (completed in 1997), the City has recognized its changing relationship with the Mississippi River, and the need to plan for adjacent land uses that take best advantage of a river that is now an environmental, economic, cultural, historic, natural and recreational resource. The *Development Framework* first introduced the concept of the West Side as a series of linked urban villages where people live, work and play. Each village was seen as having a clearly-identified focus, high-quality architecture, well-designed public spaces, diverse housing opportunities and a vibrant local economy, with the Mississippi River an integral part of each neighborhood.

In 1999, the *West Side Flats Development Strategy* was prepared to study the area between Wabasha, Robert, Plato and the river in more detail, and to apply the *Development Framework* vision and principles to this area. In 2000, the Saint Paul City Council endorsed the *Development Strategy* as the overall vision for future development of the West Side Flats Urban Village.

Also in 2000, the Planning Commission conducted a zoning study to create the regulatory tools to implement the urban village concept, not only on the West Side Flats, but also on other river's edge, post-industrial sites that had significant redevelopment potential. A new zoning district, OS2 General Office-Service, was created to provide for urban villages that are pedestrian-friendly, transit-oriented and compact, with a diverse mix of land uses, range of housing types and prices, and parks/open spaces. The West Side Flats Urban Village was zoned OS2 in 2001.

## **West Side Flats Master Plan and Development Guidelines**

The *West Side Flats Master Plan and Development Guidelines* (<http://www.stpaul.gov/DocumentCenter/Home/View/7185>) was adopted in 2001 to guide the development of a mixed-use urban village on the West Side Flats, and to give more direction on how the OS2 zoning should be implemented on the site. A collaboration of the West Side Community Organization, Neighborhood Development Alliance, Riverview Economic Development Association, Saint Paul Riverfront Corporation, Saint Paul on the Mississippi Design Center and City of Saint Paul, the *West Side Flats Master Plan and Development Guidelines* refined the urban design principles laid out in the *Saint Paul on the Mississippi Development Framework*, applying them to the 40-acre vacant and underutilized West Side Flats Urban Village along the Mississippi River across from downtown Saint Paul. The *Master Plan* is the closest thing the City has to a form-based code. It contains a thoroughfare plan, regulating plan, building typology plan, parking plan, stormwater management plan and public realm plan.

In 2004, the OS2 zoning was replaced with a more complete series of zoning districts, Traditional Neighborhood districts, intended to create pedestrian-friendly, transit-oriented, mixed use projects and neighborhoods throughout Saint Paul. As part of this work, the West Side Flats Urban Village was rezoned to T3M Traditional Neighborhood, and the *Master Plan* was re-adopted by the City Council to guide the implementation of T3M zoning in the urban village.

### **NEED FOR A PLAN UPDATE AND EXTENDED PLANNING AREA**

While very little of the redevelopment envisioned in the *West Side Flats Master Plan and Development Guidelines* has occurred, primarily due to the economic downturn and housing "bust" right after the *Plan* was adopted, some projects have been built since 2001. US Bank built a call center with an adjacent parking ramp in 2002, and the railroad crossing on Fillmore Street was reopened in 2011. Significant progress has been made on the West Side Flats Apartments project at the Wabasha Bridgehead, and funding has been secured to build a new Harriet Island Boulevard in conjunction with the apartment project. The intervening years also saw much community debate about the proposed Bridges of Saint Paul project, planned for most of the West Side Flats Urban Village as well as the area to the east, bounded by Robert Street, Fillmore Street, Lafayette/Hwy. 52 and the Mississippi River. (The Bridges project was not built.)

### **ISSUES TO BE ADDRESSED IN PLAN UPDATE**

There are four issues necessitating an update of the *West Side Flats Master Plan and Guidelines*: 1) urban design and land use; 2) stormwater management; 3) sanitary sewer capacity; and 4) expansion of the planning area to address potential development pressure east of Robert Street.

#### Urban design and land use

In spite of the minimal amount of redevelopment that has occurred in the last 10 years, City staff have had enough experience with the *Master Plan* and Traditional Neighborhood zoning to have some questions about whether the *West Side Flats Master Plan and Development Guidelines* are providing the right type and level of direction in a time of market volatility and limited public funding capacity. While the fundamental urban design goals and principles in the *Master Plan* (including those relating to height and density gradients, the street and block pattern, and the proposed open space network) have stood the test of time, City staff would like to take a fresh look at some of the land use and development assumptions, and explore whether a more general, flexible regulatory approach is a better fit for the Urban Village.

#### Stormwater management

City staff experience with the *Master Plan* for more than a decade has also shown the importance of a stormwater management plan for the planning area. Stormwater conveyance in the area is complex, and must take into consideration the area's location in the floodplain and behind a levee. During times of high river stage, stormwater flows, including runoff from storm sewers on top of the bluff above the planning area, need to be pumped through lift stations near the river's edge. In December 2010, the City completed a hydraulic and water quality analysis of the Riverview subwatershed, which includes the West Side in Saint Paul, and drainage areas from adjacent communities to the south, including Mendota Heights, West St. Paul and South St. Paul.

Groundwater levels are highly dependent on Mississippi River elevations. Near the levee wall, groundwater seepage forces are a high-priority concern for the Army Corps of Engineers. In addition, subsurface conditions may be impacted by historic land use activities.

Beyond considerations related to the planning area's proximity to the Mississippi River and location behind a levee, the area is expected to meet and, where possible, exceed load allocation requirements for the Mississippi River as measured against a site-specific standard for sediment concentration. The City is also anticipating changes to the Minnesota Construction General Permit that may include more stringent water quality provisions than currently required. Finally, the City is actively participating in the Minimal Impact Design Standards process facilitated by the Minnesota Pollution Control Agency. These state-level initiatives will have direct bearing on how stormwater is managed and evaluated.

A more detailed and sophisticated stormwater management/green infrastructure plan is needed to inform the location, massing and density of new development, as well as the design and location of public open space. The City desires guidance that will allow an individual project to meet all applicable stormwater regulations, while also encouraging stormwater treatment to be more visible (bio-oriented) and to provide multiple benefits.

#### Sanitary sewer

The planning area is currently served by City sanitary sewer, including two pump stations (at Riverview and Plato). The original Master Plan did not consider the impact of proposed development on sanitary sewer capacity or demand. Consequently, over the life of the Plan, the impact of each development proposal on the sanitary sewer system has been evaluated on a case-by-case basis. City staff are concerned that, over time, this approach will result in either a "first-come, first-served" allocation of sanitary sewer capacity, or a situation where later development phases pay disproportionately for improvements to the sanitary sewer system. City staff will provide information on existing sanitary sewer capacity, and work with the consultant to determine whether and what improvements will be required to maintain capacity for all planned development.

#### Expansion of planning area

Experience with the Bridges of Saint Paul project, as well as the City's recent work on the Great River Passage Master Plan, have shown the need to plan for a larger area along the West Side riverfront. The planning area will be extended to the east, to include the area bounded by Robert Street, Lafayette/Hwy. 52, Plato Boulevard and the river. A portion of this area is prime riverfront land, and is likely to undergo development pressure once the market returns. The expanded planning area also includes the Riverview Industrial Park, which the *Great River Passage Master Plan* has recommended be explored for land use intensification and diversification, while maintaining the industrial employment base.

#### **PLANNING COMMISSION TASK FORCE**

The West Side Flats have a long history of citizen engagement and debate about its future. A community task force will be appointed by the Planning Commission to advise the work of the consultant team and City staff, and will be co-chaired by a Planning Commissioner and a community representative. The West Side Community Organization (WSCO), the official citizen participation organization for District 3 (the West Side), will assist in identifying members of the task force for consideration by the Planning Commission. Beyond the task force and district council, the consultant team

will need to identify creative and innovative methods for generating genuine community and stakeholder involvement.

### **ZONING STUDY**

The area already covered by the *West Side Flats Master Plan and Development Guidelines* is zoned T3M. The expanded planning area, approximately 50 acres in size, is zoned mostly I1, with some T3 and I2 parcels at the river's edge. City staff is requesting that the Planning Commission initiate a zoning study at the same time that it initiates the plan update process, to ensure that zoning in the larger area is consistent with the revised *Master Plan*.

### **COMMITTEE RECOMMENDATION**

The Neighborhood Planning Committee recommends that the Planning Commission:

1. initiate the update of the *West Side Flats Master Plan and Development Guidelines*; and
2. authorize the creation of a community task force to advise the work of the consultant team and City staff, to be appointed by the Planning Commission after an open call for members, and co-chaired by a Planning Commissioner and a community representative; and
3. initiate a zoning study for the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the south.

A draft resolution is attached.

Attachments



city of saint paul  
planning commission resolution  
file number \_\_\_\_\_  
date \_\_\_\_\_

**WHEREAS**, the *West Side Flats Master Plan and Development Guidelines (Master Plan)* was adopted in 2001 to guide the development of a mixed-use urban village on the West Side Flats in the area bounded by Wabasha Street on the west, the Mississippi River on the north, Robert Street on the east and Plato Boulevard on the south; and

**WHEREAS**, the *Master Plan* was a collaboration of the West Side Community Organization, Neighborhood Development Alliance, Riverview Economic Development Association, Saint Paul Riverfront Corporation, Saint Paul on the Mississippi Design Center and City of Saint Paul; and

**WHEREAS**, the *Master Plan* refined the urban design principles laid out in the *Saint Paul on the Mississippi Development Framework*, applying them to the 40-acre vacant and underutilized West Side Flats Urban Village along the Mississippi River across from downtown Saint Paul; and

**WHEREAS**, the *Master Plan* contains a thoroughfare plan, regulating plan, building typology plan, parking plan, stormwater management plan and public realm plan; and

**WHEREAS**, in 2004, the West Side Flats Urban Village (bounded by Wabasha Street on the west, the Mississippi River on the north, Robert Street on the east and Plato Boulevard on the south) was rezoned to T3M Traditional Neighborhood with a Master Plan, and the *West Side Flats Master Plan and Development Guidelines* was re-adopted by the City Council as part of the T3M zoning of the area; and

**WHEREAS**, experience with the *Master Plan* for the past decade has led staff to question whether it is providing the right type and level of direction in a time of market volatility and limited public funding capacity; and

**WHEREAS**, there are four issues necessitating an update of the *West Side Flats Master Plan and Guidelines*: 1) urban design and land use; 2) stormwater management; 3) sanitary sewer capacity; and 4) expansion of the planning area to address potential development pressure east of Robert Street; and

**WHEREAS**, City staff and the West Side neighborhood wish to expand the planning area to include the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the south; and

**WHEREAS**, the *Great River Passage Master Plan*, currently being considered as an addendum to the Saint Paul Comprehensive Plan, contains recommendations for the expanded planning area; and

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

**WHEREAS**, City staff would like to explore zoning options in order to ensure that zoning in the expanded planning area is consistent with the revised *Master Plan*; and.

**WHEREAS**, on October 12, 2012, the City of Saint Paul Department of Planning and Economic Development issued a Request for Proposals from qualified multi-disciplinary consultant teams to assist PED in updating the *West Side Flats Master Plan and Development Guidelines*, with the work to be completed no later than December 31, 2013.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission hereby initiates the update of the *West Side Flats Master Plan and Development Guidelines* for the area bounded by Wabasha Street on the west, the Mississippi River on the north, Robert Street on the east and Plato Boulevard on the south; and

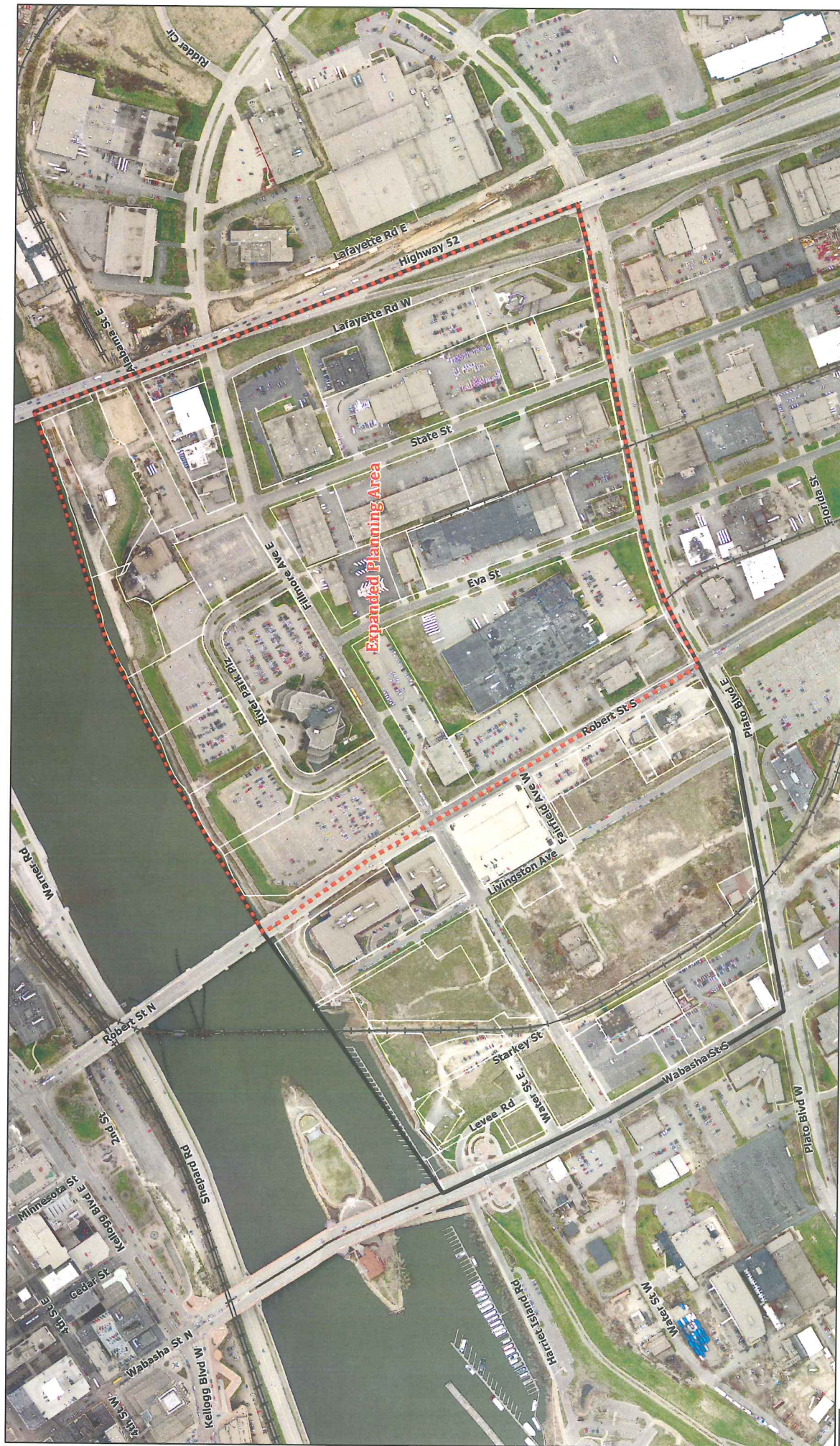
**BE IT FURTHER RESOLVED**, that the Planning Commission expands the area to be covered by the *West Side Flats Master Plan and Development Guidelines* to include the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the South; and

**BE IT FURTHER RESOLVED**, that the Planning Commission authorizes the creation of a community task force to advise the work of the consultant team and City staff in updating the *Master Plan*; and

**BE IT FURTHER RESOLVED**, that this task force shall be appointed by the Planning Commission after an open call for members, and shall be co-chaired by a Planning Commissioner and a community representative; and

**BE IT FINALLY RESOLVED**, that the Planning Commission also hereby initiates a zoning study for the area bounded by Robert Street on the west, the Mississippi River on the north, Lafayette/Hwy. 52 on the east and Plato Boulevard on the south.





10/30/2012

## West Side Flats Master Plan and Development Guidelines

Study Area





## Development Guidelines

The Development Guidelines are composed of a variety of standards that describe the desired built form of the neighborhood. They include: Thoroughfare Standards, Block Standards, Urban Standards, Architectural Standards and Landscape Standards. Thoroughfare Standards guide the rights-of-way of neighborhood streets and provide dimensions for moving lanes, parking, planting and pedestrian systems. Block Standards include specifications about each block, such as area, use and building type. Urban Standards determine the placement of buildings on individual lots and blocks. Architectural Standards provide general information about the desired character of individual buildings. Landscape Standards suggest plant material, tree species and guidance for signage, lighting and paving materials.

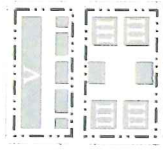
### Thoroughfare Standards



### Block Standards

#### Block 7

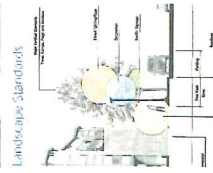
7A: 27,700 sf  
7B: 22,000 sf



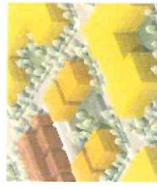
### Urban Standards



### Architectural Standards

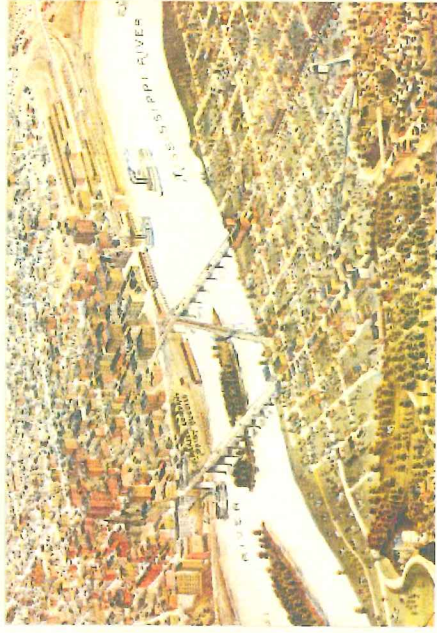


1. Uses of buildings should be as shown here. The only permitted use above the first story is residential.
2. Maximum building height should be as designated by the Block Standards.
3. Each building's footprint should be as shown here. In lot 7A, the footprint should not exceed the second story. In lot 7B, the footprint should not exceed the second story. In lot 7C, the footprint should not exceed the second story. In lot 7D, the footprint should not exceed the second story. In lot 7E, the footprint should not exceed the second story. In lot 7F, the footprint should not exceed the second story. In lot 7G, the footprint should not exceed the second story. In lot 7H, the footprint should not exceed the second story. In lot 7I, the footprint should not exceed the second story. In lot 7J, the footprint should not exceed the second story. In lot 7K, the footprint should not exceed the second story. In lot 7L, the footprint should not exceed the second story. In lot 7M, the footprint should not exceed the second story. In lot 7N, the footprint should not exceed the second story. In lot 7O, the footprint should not exceed the second story. In lot 7P, the footprint should not exceed the second story. In lot 7Q, the footprint should not exceed the second story. In lot 7R, the footprint should not exceed the second story. In lot 7S, the footprint should not exceed the second story. In lot 7T, the footprint should not exceed the second story. In lot 7U, the footprint should not exceed the second story. In lot 7V, the footprint should not exceed the second story. In lot 7W, the footprint should not exceed the second story. In lot 7X, the footprint should not exceed the second story. In lot 7Y, the footprint should not exceed the second story. In lot 7Z, the footprint should not exceed the second story.



# West Side Flats

## Master Plan & Development Guidelines



### Executive Summary

The West Side Flats (a 45-acre area bordered by Wabasha Street, Plato Boulevard, Robert Street and the Mississippi River) provide a unique opportunity. While the area has suffered from disinvestment over the last several decades and is currently the location of several acres of vacant land, the Flats hold great promise to be transformed in a way that will complement the greater West Side area and reconnect it to the Mississippi River. A mix of residential, commercial, entertainment and recreational uses will fill this "hole in the urban fabric" and revitalize this long-neglected section of the Mississippi Riverfront.

The West Side Flats Master Plan and Development Guidelines are rooted in strong, deeply-held visions shared by the larger West Side community and the City as a whole, including the Saint Paul on the Mississippi Development Framework, West Side Flats Development Strategy and West Side Flats Conceptual Master Plan. Each of these documents further refines the overarching vision of a city of neighborhoods connected to the Mississippi River, and sets the stage for the specific guidelines and standards of the West Side Flats Master Plan.

Prepared for the  
SAINT PAUL ON THE MISSISSIPPI DESIGN CENTER  
IN CONNECTION WITH THE  
SAINT PAUL DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT  
AND THE  
SAINT PAUL RIVERFRONT CORPORATION  
AND THE  
NEIGHBORHOOD DEVELOPMENT ALLIANCE  
WEST SIDE CITIZENS ORGANIZATION  
ROSEVIEW ECONOMIC DEVELOPMENT ASSOCIATION  
OTUS ARCHITECTS AND ENGINEERS, INC.  
PREPARED BY  
HAMEL, GREEN AND AGRESTA/MPH, INC.

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The West Side Flats Master Plan is intended for use by developers, community-based organizations, city departments and agencies, architects, landscape architects, residents and business owners to guide the design of both private development and public improvements on the West Side Flats. In some cases, there may be a formal City role in the use of the Master Plan (e.g. site plan review, development agreements, public financing), where compliance with the guidelines and standards may be required. In other cases, the review may be more informal, such as when prospective developers confer with the West Side Citizens Organization or the Saint Paul on the Mississippi Design Center to receive feedback or assistance on a particular proposal. In any event, the West Side Flats Master Plan and Development Guidelines should be used to inform and guide new development so that it is consistent with the community's vision of how best to "complete" the West Side.

## Master Plan

The *West Side Flats Master Plan* seeks to create a balanced, sustainable place that incorporates the environment, the economy and the community into a riverfront neighborhood. Each of the ten principles of the *Development Framework* has been carefully followed to emphasize the environmental context, urban structure, movement of people and cars, and a prominent public realm.

The *West Side Flats Master Plan* was prepared through a collaboration of the West Side Organization, the Riverview Economic Development Association, the Saint Paul Riverfront Corporation, the Saint Paul on the Mississippi Design Center, the City of Saint Paul and representatives of JLT Group, the designated master developer for the Flats. It illustrates how the vision shared by these entities – and laid out in the *Saint Paul on the Mississippi Development Framework*, *West Side Flats Development Strategy* and *West Side Flats Conceptual Master Plan* – should be implemented at the neighborhood, blocks, parcel and building scale.

The Master Plan exhibits the notion of 'urban village' in several ways:

It is a true mixed-use neighborhood, patterned after many viable Saint Paul models.

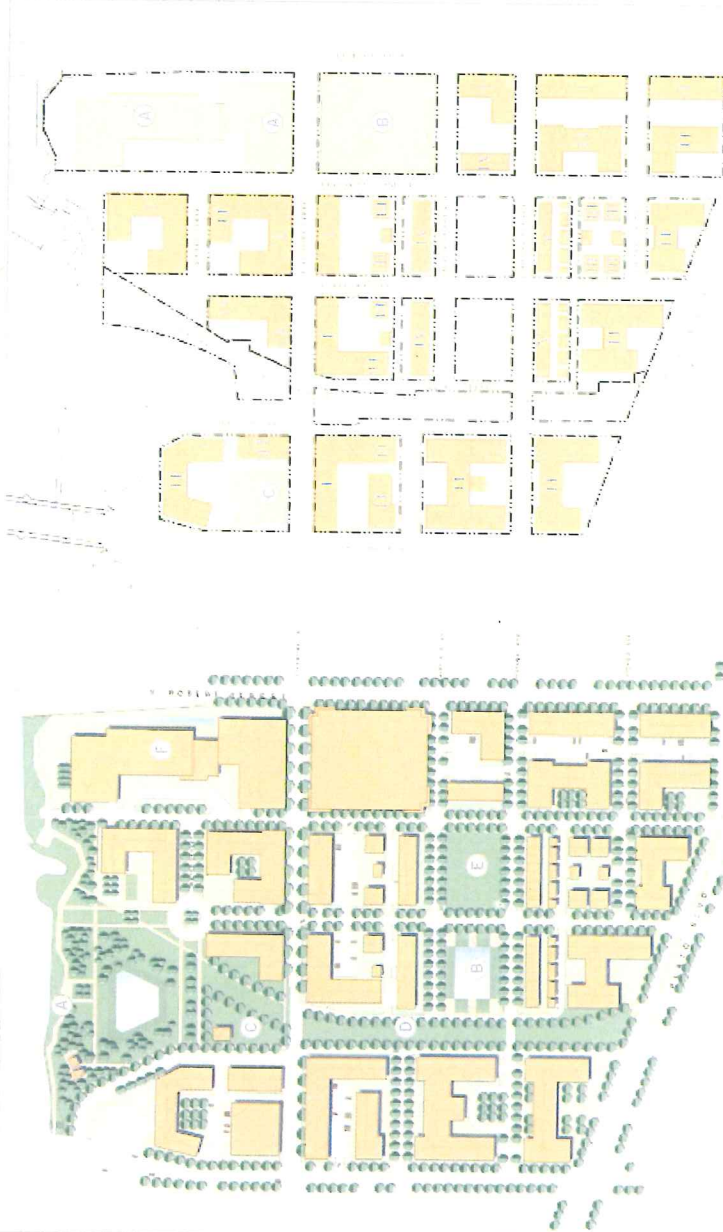
It is decidedly part of a larger whole: the greater West Side neighborhood and the great river corridor.

It places at the forefront of its physical design a prominent public realm of the river esplanade, green streets and neighborhood-scale parks and open spaces.

It is based on the historic pattern of streets and infrastructure that in an earlier time supported people who lived and worked in this area, and that integrates new development with existing neighborhood fabric.

Four major physical features that are key to the plan:

1. The prominent public realm of river esplanade, green streets (that are multi-use and connected), and public parks and open spaces.
2. The greater river environment that requires sensitive management of stormwater runoff and encourage the use of indigenous plants and materials.
3. A wide variety and mix of uses not only in the neighborhood but within the vertical envelope of the buildings.
4. A sensitive relationship to the greater river ecology and bluff lands.



A. Major Public Realm

B. Green Streets & Open Spaces

C. Riverfront & Esplanade

D. Saint Paul Avenue

E. Saint Paul Avenue North

F. Saint Paul Avenue South

## Building Types

A major feature of the neighborhood is a variety and mix of building types.



Main Street  
Type I



Courtyard Apartment  
Type II



Mansion House  
Type III



Rowhouse  
Type V



Townhouse  
Type IV



Live-Work  
Type VI



## SUSTAINABLE DESIGN

Sustainable design offers a way of mitigating our impact, and creating saleable, long-term value. It's the conception and realization of ecologically, economically and ethically responsible development and expression.

The Master Plan contains sustainable design strategies for the neighborhood as a whole, for development at the block level and for individual buildings.

BUILDING TYPE	UNITS	COMMERCIAL / OFFICE SPACE
Type I	73	150,000
Type II	40	
Type III	42	
Type IV	18	
Type V	10	
Type VI	6	
US Bank		50,000
Parking Structure		
Total	110	250,000

Existing Use in Building